

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA, : 03-CR-1382(NGG)

5 -against- :  
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7 :  
8 :  
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United States Courthouse  
Brooklyn, New York

8 BALDASSARE AMATO, STEPHEN : July 6, 2006  
9 LoCURTO, and ANTHONY : 10:00 a.m.  
BASILE, :

10 Defendants.  
11 - - - - - X

12 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL  
13 BEFORE THE HONORABLE NICHOLAS G. GARAUFI  
14 UNITED STATES DISTRICT JUDGE, and a jury.

15 A P P E A R A N C E S:

16 For the Government: ROSLYNN R. MAUSKOPF, ESQ.  
17 United States Attorney  
18 Eastern District of New York  
19 one Pierrepont Plaza  
20 Brooklyn, New York 11201  
21 BY: JOHN BURETTA, ESQ.  
22 JEFFREY A. GOLDBERG, ESQ.  
23 ANDREA GOLDBARG, ESQ.  
24 Assistant United States Attorneys

25 For the Defendant: DIARMUID WHITE, ESQ.  
BRENDON WHITE, ESQ.  
For Defendant Amato

1 Appearances: (Continued.)

2  
3 HARRY C. BATCHELDER, JR., ESQ.  
4 For Defendant LoCurto

5 GAIL LASER, ESQ.  
6 RICHARD ROSENBERG, ESQ.  
7 For Defendant Basile

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12 Proceedings recorded by computerized stenography. Transcript  
13 produced by Computer-aided Transcription.  
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1 (In open court; Parties present.)

2 THE COURT: Case on trial. Let's bring in the  
3 defendants, please.

4 Appearances, please.

5 MR. BURETTA: John Buretta, Andrea Goldbarg, and  
6 Jeffrey Goldberg for the Government.

7 MR. WHITE: Diarmuid White for Mr. Amato.

8 MR. BATCHELDER: Harry C. Batchelder for defendant  
9 Stephen LoCurto.

10

11 MS. LASER: Gail Laser and Richard Rosenberg for  
12 Anthony Basile.

13 THE COURT: With respect to Juror No. 4, I was  
14 advised by the marshal last night that Juror No. 4 was  
15 admitted to the hospital for observation for at least  
16 24 hours. So, pursuant to our discussion of yesterday, I'm  
17 replacing Juror No. 4 with Alternate No. 1 who becomes Juror  
18 No. 4.

19 Is there any objection? Hearing none it's so  
20 ordered. Let's have a side-bar for a moment. Mr. Batchelder,  
21 come up with your client.

22 MR. BATCHELDER: Yes, Your Honor.

23 (Continued on next page.)

24

25

1 (Side-bar conference held on the record out of the  
2 hearing of the jury.)

3 THE COURT: Okay, Mr. LoCurto, you wanted to say  
4 something.

5 MR. LoCURTO: I would just like to read into the  
6 record the two other expert witnesses, my expert witnesses, I  
7 had given to Mr. Batchelder about a year ago instead of  
8 Dr. DeForrest. The first one being, I believe, Your Honor  
9 signed something for him; his name is Herbert Leon McDonnell  
10 and he's from the Lab of Forensic Science. It's P.O. Box 1111  
11 Corning, New York 14830.

12 The second forensic expert I gave to Mr. Batchelder  
13 prior, about a year ago, was Stuart H. James, J-A-M-E-S. He's  
14 from James & Associates. He works out of Fort Lauderdale,  
15 Florida, 4800 Southwest 64th Avenue, Suite 105. The zip code  
16 was 33314.

17 I would also like to offer into evidence, if I may,  
18 a copy of my CDL driver's license which has the doubles and  
19 triples and all you need for a tractor trailer driver.

20 Also, I would like to offer which Mr. Batchelder has  
21 informed me that he has in the office is on the back of my PSR  
22 from the marijuana case which Your Honor was presiding at. I  
23 have a list from the IRS of all the years that I paid all the  
24 taxes for all the jobs, the real jobs, that I had.

25 THE COURT: Anything else?

1 MR. LoCURTO: I think that's about it, Your Honor.

2 THE COURT: The evidence record is closed for the  
3 case, but I will take your documents and make it a Court  
4 Exhibit so that it's part of the record.

5 Mr. Batchelder will provide me with that portion of  
6 the prior pre-sentence report.

7 MR. BATCHELDER: Yes.

8 THE COURT: I'll include that also as a court  
9 exhibit so that we have a complete record should there be a  
10 conviction and you seek to appeal your conviction.

11 MR. LoCURTO: Also to note that I did ask you to put  
12 this in prior to me getting on the stand.

13 MR. BATCHELDER: It's hearsay based on the PSR  
14 report.

15 MR. LoCURTO: It's from the IRS, sir.

16 THE COURT: I understand your position and you've  
17 made a record so that's fine.

18 Do you want to give that the first document to the  
19 Court? This is -- what is this again?

20 MR. LoCURTO: This is my driver's license which  
21 shows that it is a Commercial Driver's License, CDL, tanker  
22 double-triple and my Hazmat which might have expired because  
23 it is renewed every two years.

24 THE COURT: Thank you very much, we will make this a  
25 court exhibit. (Sidebar concludes.)

1 (In open court.)

2 THE COURT: Next. We provided counsel with a third  
3 draft of the charge as to the law. At the end of the day, if  
4 you have any objections that you haven't already noted, we can  
5 go over them.

6 MR. BATCHELDER: Your Honor, could I have a hard  
7 copy of that, please some time today?

8 THE COURT: Does anyone else need a hard copy.

9 MS. LASER: We'll take a hard copy.

10 THE COURT: I'll just have some made this morning  
11 and we'll distribute them.

12 Government, you received the latest charge?

13 MR. BURETTA: Yes, we have, Your Honor.

14 THE COURT: All right.

15 MR. BURETTA: I noticed last night as well, Your  
16 Honor, with respect to the revised indictment that we had sent  
17 there was still one error and I e-mailed a new version this  
18 morning.

19 THE COURT: We have the new version.

20 MR. BURETTA: Thank you.

21 THE WITNESS: Thank you very much. So, venue is  
22 completely out of the indictment and it will be completely out  
23 of the charge?

24 MR. BURETTA: Thank you.

25 THE COURT: Okay. Anything else before we get

1 started? Very well. Let's bring in the jury.

2 (Pause.)

3 THE COURT: I've also provided the parties with a  
4 revised verdict sheet with the change that Mr. White and I  
5 discussed yesterday.

6 (Pause.)

7 COURTROOM DEPUTY: Jury entering.

8 (Jury enters courtroom at 10:21 a.m.)

9 THE COURT: Please be seated. Good morning, members  
10 of the jury.

11 THE JURY: (Collectively) Your good morning.

12 THE COURT: Before we resume with closings, let me  
13 just advise you with respect to Juror No. 4. Last night, she  
14 was admitted to the hospital simply for observation for  
15 24 hours. She seemed fine, but the doctors wanted to keep an  
16 eye on her and so I excused her from the jury and I replaced  
17 her with Alternate No. 1 who is now Juror No. 4 and we will  
18 proceed accordingly.

19 The Government may continue with its closing  
20 argument.

21 Mr. Goldberg, you may proceed.

22 MR. GOLDBERG: Thank you, Your Honor.

23 Good morning, again, everyone.

24 THE JURY: (Collectively) Good morning.

25 MR. GOLDBERG: Thank you, thank you again for your

1 continued attention yesterday. I know it was a bit hot  
2 yesterday; it is cooler today. At times it was uncomfortable  
3 but we're making progress.

4 So, where do we stand? Yesterday I explained that  
5 there are four elements to RICO conspiracy which is the first  
6 count in the indictment.

7 First, we proved that the Bonanno Organized Crime  
8 Family exists;

9 Second, we proved that the Bonanno Organized Crime  
10 Family has an effect on interstate and foreign commerce; and,

11 Third, we proved that each of these three defendants  
12 was employed by or associated with the Bonanno Organized Crime  
13 Family.

14 So, what's left? We were talking about the fourth  
15 element which is that each of these defendants agreed, it's a  
16 conspiracy charge, agreed to participate in the conduct of the  
17 affairs of the Bonanno Organized Crime Family.

18 We talked about one of the ways that we've shown.  
19 That we've shown that by proving during this trial that they  
20 committed the racketeering acts set forth in Count One. We  
21 got through three of those racketeering acts. Racketeering  
22 Act Number One, murder is and murder conspiracy of Joseph  
23 Platia charged against Steven LoCurto;

24 We got through Racketeering Act Four, marijuana  
25 distribution conspiracy charging Anthony Basile;



1           And we gotten through Racketeering Act Five,  
2 marijuana distribution conspiracy as charged against Steven  
3 LoCurto;

4           And we were in the process of talking about  
5 Racketeering Act Six the murder and murder conspiracy of  
6 Sebastiano, Sammy, DiFalco. Before I continue with the  
7 DiFalco murder, I want to make one important point about each  
8 of the three murders charged within Count One: Joseph Platia,  
9 Sammy DiFalco and Robert Perrino. When you get the verdict  
10 sheet, you will see that for each of those three murders,  
11 there are actually two questions that are asked.

12           Number one, did the defendant who is charged with  
13 that murder conspire to commit that murder? And number two,  
14 did the defendant who is charged with that murder actually  
15 participate in that murder?

16           The reason for that is because even though my fancy  
17 chart here says murder, each of the murder charges Platia,  
18 DiFalco and Perrino, actually charge conspiracy to commit  
19 murder and the murder itself, and the judge will instruct you,  
20 when you get charged on the law that if you find that the  
21 defendant committed either of those two crimes: Conspiracy to  
22 murder or participation in the murder itself, then you must  
23 find that the Government has proven that particular  
24 racketeering act.

25           So, I want to make that clear. And, by the way,

1 yesterday and today again, I've been summarizing parts of the  
2 law but keep in mind that it's the judge who will instruct you  
3 as to the details of the law and I don't expect him to tell  
4 you anything different than what I tell you but if at any time  
5 during the judge's instructions he says something that you  
6 hear that's different from what I say, you listen to the  
7 judge, not me.

8           Okay. So, lets resume talking about Racketeering  
9 Act Six, the murder and murder conspiracy of Sammy DiFalco.

10           What did we learn yesterday about the conspiracy to  
11 murder Sammy DiFalco and the murder itself. We learned a  
12 number of things. Number one, we learned that on Thursday,  
13 February 27, 1992, Sammy DiFalco left his home around 10:30 or  
14 11 o'clock in the morning to go to work at the restaurant,  
15 Giannini's Restaurant.

16           What else did we learn?

17           Number two, we know that Sammy DiFalco left the  
18 restaurant in the afternoon, some time between 4:30 and 5:30.  
19 You'll recall that it was at 4:30 p.m. that Sammy called his  
20 wife Nina from the restaurant and said "I'm coming home early,  
21 I'll be home around 7:30." You'll also remember that about an  
22 hour later at 5:30, Nina DiFalco got a phone call from a  
23 family friend who was looking for Sammy and said "I tried to  
24 reach him at the restaurant. He's gone, he's not there." So  
25 we know he left the restaurant between 4:30 and 5:30 p.m. We

1 also know, ladies and gentlemen, that no one saw him alive  
2 after that, he was missing at that point forward.

3           What else did we learn? We learned that three weeks  
4 later, on the night of March 18, 1992, three weeks later,  
5 about three weeks later, March 18, 1992, at night Sammy  
6 DiFalco was found at the Fleet Street Towing parking lot. You  
7 will recall that the car was found about a day before at the  
8 Dunkin' Donuts parking lot and it was towed. The police had  
9 it towed to Fleet Street, they didn't know there was a body in  
10 the trunk. And we also learned yesterday that the autopsy  
11 showed that Sammy DiFalco had been dead for days.

12           Yesterday, we also talked about the testimony of  
13 Anthony Tabbita the man with the blue rim around his picture.  
14 He pled guilty, he pled guilty to conspiring to kill Sammy  
15 DiFalco, and he told you the same thing that he's been saying  
16 for the past eight years: That it was Baldassare Amato who  
17 had ordered Sammy DiFalco killed. Tabbita told you about two  
18 plans: One to show --

19           MR. WHITE: Objection, Your Honor.

20           THE COURT: Objection noted.

21           MR. GOLDBERG: One to try and kill Sammy DiFalco in  
22 the restaurant and one to try to lure him out of the  
23 restaurant and into the vacant store that the DiFalco's owned,  
24 66-20 Fresh Pond Road, right down the block from Cafe Giannini  
25 controlled by Baldassare Amato.

1           Tabbita told you a lot about that location and other  
2 witnesses did as well. Tabbita told you how he and Vito Guzzo  
3 who was also in on the plot actually went into Giannini  
4 Restaurant, approached Sammy and Tabbita says, "Hey, Vito  
5 Guzzo is interested in buying or renting the vacant store and  
6 Sammy" --

7           MR. WHITE: Your Honor, I object to the repetition.

8           THE COURT: Objection noted. You may continue.

9           MR. GOLDBERG: And Sammy said, "You know what, here,  
10 take the keys and you go." Tabbita also told you that  
11 Baldassare Amato and Sal Montana were right there in the  
12 restaurant at the same table watching the whole thing and then  
13 Tabbita went to jail and you know the murder occurred some  
14 time after he went to jail.

15           We talked about how you know that Anthony Tabbita is  
16 telling the truth. We talked about Tabbita telling you about  
17 the vacant store having a basement, that the Aiello's owned  
18 it, that the DiFalco's were trying to rent it or sell it and  
19 we've show you how it was proved by witnesses and the property  
20 records. We also talked about how Anthony Tabbita is  
21 receiving no benefit for coming into court and talking about  
22 this murder.

23           And we also told you that Tabbita's testimony is  
24 perfectly corroborated by Salvatore Vitale. Vitale told you  
25 about a conversation he had with Joseph Massino who said that

1 Sammy DiFalco -- I'm sorry -- that Baldassare Amato had Sammy  
2 DiFalco killed and Vitale also told you he had discussed with  
3 Massino that the motive was money, a dispute over money, and  
4 we discussed yesterday how Sal Vitale and Anthony Tabbita  
5 don't know each other, they don't even know each other, and  
6 they're saying the exact same things about who was responsible  
7 for the murder and what the motive was and beyond that.

8           You heard Sal Vitale testify that Massino said that  
9 after Baldassare Amato had Sammy DiFalco killed Baldassare  
10 Amato hired Nina, Sammy's wife, to work in the restaurant and  
11 Nina told you and Michael D'Avonzo told and you Giovanni  
12 Anunziati told you that.

13           So we're back up to speed.

14           What else proves to you that Baldassare Amato is  
15 guilty? Baldassare Amato's own suspicious actions false  
16 statements, inconsistent statements about Sammy's murder.  
17 We're going to go through a few of them and they show you,  
18 ladies and gentlemen, that Baldassare Amato knew he was guilty  
19 and that he was trying to deflect attention from himself. He  
20 was trying to cover his tracks; he was trying to keep his ear  
21 to the ground; he was trying to hide what he knew he did.

22           Do you remember late in the trial Detective John  
23 Jacobsen, an ordinary fella, he came in from Florida. He was  
24 the person from the 106th Precinct, I'm sorry, yes, he was  
25 from the 106th Precinct where the DiFalco's lived and he was

1 the person who fielded the missing persons report in the day  
2 or two after Sammy went missing on February 27th, 1992.

3           You'll recall that he told you that on Sunday,  
4 March 1st, Sammy went missing on Thursday, February 27th and  
5 that year February has 29 days. So, Thursday, February 27th  
6 Sammy went missing. On that Sunday, March 1st, John Jacobsen  
7 went to the DiFalco residence as a standard practice to  
8 interview the family and find out what they might know and  
9 where Sammy might be. He told you that this was a standard  
10 practice when investigating missing persons that he would call  
11 ahead. He would call ahead and say, "Hey, I'm coming," so it  
12 wasn't a surprise visit. Nina DiFalco at least knew that  
13 Detective John Jacobsen was coming by and anybody else who was  
14 with Nina DiFalco at the residence therefore knew that John  
15 Jacobsen was coming to interview Nina DiFalco about Sammy  
16 DiFalco's disappearance.

17           And you remember who was there? Do you remember who  
18 was there on Sunday, March 1st? Baldassare Amato was there.  
19 The person who had ordered Sammy DiFalco killed was there at  
20 the DiFalco residence just a few days after Sammy disappeared.  
21 The person who had ordered Sammy DiFalco killed was there when  
22 Detective John Jacobsen called ahead and said, "Hey I'm coming  
23 to interview about the missing person."

24           Now, you may be saying to yourself, well, what's  
25 wrong with that, Nina was upset Sammy was missing; Baldo knew

1 Sammy; Baldo knew Nina; he was keeping her company. In  
2 isolation that sounds fine but remember who Baldo Amato is and  
3 what Baldassare Amato did: He ordered the murder of Sammy  
4 DiFalco.

5 Anthony Tabbita told you that. He learned it  
6 through the Sals: Sal Montana and Little Sal, both associates  
7 on record with Baldassare Amato and he brought in Vito Guzzo.

8 So, don't be fooled by the argument that Baldassare  
9 Amato is merely there to provide some company. Baldassare  
10 Amato is there because he's listening and you remember what  
11 John Jacobsen, the detective, told you about Baldassare  
12 Amato's demeanor, about Baldassare Amato's demeanor when he  
13 interviewed Nina DiFalco when John Jacobsen interviewed Nina  
14 DiFalco.

15 Let's take a look at it.

16 "QUESTION: During the time that you were asking  
17 Nina DiFalco questions on March 1, 1992, where was this other  
18 man you referred to a moment ago?"

19 "ANSWER: He was very close to our vicinity. We  
20 were seated at a table and he was anywhere between two to five  
21 feet away from us.

22 "QUESTION: Did he appear to be listening to your  
23 questions?"

24 "ANSWER: Yes."

25 "QUESTION: Did he appear to be interested in what

1 was being discussed?"

2 "ANSWER: Yes."

3 "QUESTION: At any point during your interview with  
4 Nina DiFalco, did he leave the room?"

5 "ANSWER: Not that I can recall."

6 Now, again, you may be saying to yourselves, well,  
7 he's worried about Sammy, he's worried about Sammy. I submit  
8 to you that doesn't fly. It's against common sense because  
9 Baldassare Amato ordered Sammy DiFalco's murder and he was  
10 involved in it. Why is he there? Why is he listening? Why  
11 isn't he giving them privacy? Because he wants to know what  
12 the police are asking; he wants to know what the police know.

13 And you'll remember that John Jacobsen, if there's  
14 any evidence that supports this, it's the fact that John  
15 Jacobsen, right after interviewing Nina DiFalco, said "Boy,  
16 this guy is pretty interested in what's going on, I think I'll  
17 ask him some questions. So, John Jacobsen did; he asked  
18 Baldassare Amato a few questions, too, and we'll talk about  
19 the answers to those questions in a moment.

20 Now, that was Sunday March 1, 1992. Baldassare  
21 Amato was interviewed by the police again. He was interviewed  
22 by the police 18 days later on March 19, 1992, which is a  
23 significant date, March, 1992, that was the day after, that  
24 was the day after Sammy was found in the evening of March 18,  
25 1992.



1           So, the very next day, the very next day Detective  
2 Vormittag, remember Detective Vormittag, he went with  
3 detective Ortiz and he went to Giannini Restaurant to  
4 interview Baldassare Amato the very next day. When did he go?  
5 He said, and his report reflects this, that he went around  
6 2:20 or 2:30 in the afternoon of March 19, 1992, and he  
7 remembered this very well because he said this was the first  
8 and only time he had been inside Giannini Restaurant.

9           Now, Vormittag, you'll recall he was an organized  
10 crime investigator. Detective Ortiz, who was from the 104th  
11 Precinct, was not; so why is Vormittag there? Vormittag is  
12 there because he knows organized crime, he sort of  
13 investigates organized crime. Ortiz is not, Ortiz is a  
14 non-organized crime detective.

15           So, Vormittag says I'm positive that that interview  
16 was inside Giannini Restaurant, and you will recall that his  
17 report, at the very beginning of the report, it says "present  
18 at this command ." I'm sure you remember, I'm sure Mr. White  
19 cross-examined Mr. Vormittag about that, and I'm sure that  
20 when Mr. White gets up and speaks to you he's going to argue  
21 that what's inside that report is inaccurate because he  
22 couldn't even get the place of the interview right.

23           I submit to you, ladies and gentlemen, that was  
24 simply an oversight. I submit to you what happened was  
25 Detective Vormittag wrote the report, typed up the report at

1 the command, and so he's sort of rushing to get to the facts,  
2 what did the guy say, and so he's sitting in the command.  
3 Even though the interview was at Giannini, he remembers where  
4 that interview was; he remembers where they were standing; he  
5 remembers how he couldn't get past the front door; he  
6 remembers how Baldassare Amato was standing there and looking  
7 at him, and we'll talk about that in a second, but I submit to  
8 you, ladies and gentlemen, that interview was, in fact, in  
9 Giannini Restaurant and the report, very beginning of the  
10 report, was standard language that Detective Vormittag  
11 probably wrote a million times. "Sitting here at the command  
12 with interviewee." But then he continues and he talks about  
13 the details and I submit to you that he was accurate about the  
14 details, the times, the dates, the things that Baldassare  
15 Amato said.

16 In any event, Vormittag told you that he interviewed  
17 Baldassare Amato for about 15 minutes and then he described  
18 for you -- and this was at the restaurant -- he described for  
19 you how the interview ended and you'll remember that Detective  
20 Vormittag said, "At the end of my interview, I gave him my  
21 business card, I gave my detective card, and I said, you know,  
22 if there's anything that you hear give me a call." And I'm  
23 sure, I'm sure all of you remember this testimony. I'm sure  
24 you remember Detective Vormittag on the stand when I asked him  
25 the following question.

1 "QUESTION: What did you see when you gave  
2 Baldassare Amato your business card and you told him if he  
3 heard anything. Explain to the jury, please?"

4 "ANSWER: When I gave him the card I got a glance  
5 from him, a stare, something like that (indicating). Just  
6 looked over his eyes at me and I just knew it was over."

7 I can't do it like he did it but you saw it and you  
8 know what look he got."

9 "QUESTION: How memorable was that look?"

10 "ANSWER: I remember it quite well."

11 "QUESTION: You said you knew it was over, explain  
12 that?"

13 "ANSWER: I just knew there would be no other  
14 information forthcoming from Mr. Amato."

15 You know why there would be no other information  
16 coming from Baldassare Amato. You know why, ladies and  
17 gentlemen.

18 So, what did Baldassare Amato tell the police on  
19 March 1st at the DiFalco residence when John Jacobsen  
20 interviewed Nina DiFalco and then interviewed Baldo and what  
21 did Baldassare Amato tell William Vormittag, Detective  
22 Vormittag, on March 19th, the day after Sammy's body was  
23 found.

24 Let's look at that.

25 He told both Jacobsen and Vormittag that he was at

1 the restaurant that day. He told both Jacobsen on March 1st  
2 that, "I was at the restaurant." And he told Detective  
3 Vormittag "I was at the restaurant the day Sammy was missing,"  
4 Thursday, February 27, 1992. Was Baldassare Amato telling the  
5 truth to the police? Was Baldassare Amato telling the truth  
6 when he told Detective Jacobsen just a few days after  
7 March 27, 1992, that he was at the restaurant. Was he telling  
8 the truth when he told Detective Vormittag that he was at the  
9 restaurant?

10 Let's look at Giovanni Anunziati's testimony.

11 "QUESTION: I want to direct your attention to the  
12 day that Sammy disappeared. Were you working at the  
13 restaurant that day?"

14 "ANSWER: Yes, sir."

15 "QUESTION: Was Baldassare Amato at the restaurant  
16 that day?"

17 "ANSWER: No."

18 What else did Baldassare Amato say to Detective  
19 Vormittag on March 19th, the day after Sammy's body was found.  
20 What did he tell Vormittag during the interview at Giannini  
21 restaurant.

22 Let's take a look at it.

23 "Baldassare Amato advised that DiFalco was not  
24 involved in any contraband, gambling or other activities  
25 associated with organized crime."

1           Was Baldassare Amato telling Detective Vormittag the  
2 truth about that last part, "not associated with organized  
3 crime." "Not associated with organized crime." Well, you  
4 know that that's not the truth. You know that Baldassare  
5 Amato was lying to Detective Vormittag when he said that. Who  
6 told you that? Who told you that? Witnesses who identified  
7 Sammy DiFalco as a Bonanno associate on record with Baldassare  
8 Amato. No less than five witnesses: Salvatore Vitale, Joseph  
9 D'Amico, Anthony Tabitta, Frank Fiordolino, and John Carillo,  
10 the very first witness in the case.

11           Was Baldassare Amato the made member of the Bonanno  
12 Organized Crime Family for decades telling the truth when he  
13 talked to Detective Vormittag on March 19, 1992? When the  
14 judge instructs you on the law, he's going to tell you that if  
15 you find, if you find that Baldassare Amato made a false  
16 statement in order to divert suspicion from himself, you may  
17 infer that Baldassare Amato believed and knew that he was  
18 guilty.

19           Do you remember what else Baldo was telling people?  
20 Not only to the police but to everyone else in the days  
21 following Sammy's disappearance. Remember what else he was  
22 telling everybody else about what he thought had happened to  
23 Sammy DiFalco? He was telling people about Cathy Ventemeglia.  
24 Remember Cathy Ventemeglia?

25           We called Nina DiFalco to the stand and we elicited

1 from her the fact, the painful fact, that Sammy DiFalco was  
2 having an affair with Cathy Ventemeglia. You'll remember the  
3 anonymous letter, you'll remember the phone call we elicited.  
4 We brought that out because we wanted you to have the whole  
5 story. Do you remember what Giovanni Anunziati --

6 MR. WHITE: Objection to that last comment.

7 THE COURT: Objection is noted.

8 MR. GOLDBERG: Do you remember what Giovanni  
9 Anunziati told you? Again, he was working at Giannini's  
10 Restaurant; he was the one that told you that Baldassare Amato  
11 was not there that day, the day that Sammy went missing.

12 He said he talked to Baldassare Amato the day after  
13 Sammy disappeared: Friday, February 28, 1992. He talked to  
14 Baldassare Amato and do you remember what happened during that  
15 conversation? Let's take a look at it.

16 "QUESTION: What did Baldassare Amato say to you and  
17 what did you say to him?"

18 "ANSWER: He asked me if I know anything about Sam,  
19 because, the day before -- the night before, he never got  
20 home, so Nina called and said: "Sammy never got home;" and  
21 Baldo asked me if there was a number for somebody I know and  
22 -- "

23 "QUESTION: Who is the "somebody"?

24 "ANSWER: Cathy... and I go into the restaurant  
25 office and Baldo said: "Don't worry about it. Don't worry

1 about it."

2 Baldassare Amato, brings up in a conversation with  
3 Giovanni Anunziati, the day after Sammy disappears Baldassare  
4 Amato brings up Cathy. And when Giovanni Anunziati begins to  
5 act on that information, Baldo interrupts him. He said, "You  
6 know what don't worry about it, don't worry about it." Do you  
7 remember Nina DiFalco's testimony on this point? She said she  
8 also spoke to Baldassare Amato a day or so after Sammy  
9 disappeared and she knew, she knew for sure by then that Sammy  
10 and Cathy had an affair. But do you remember what Baldassare  
11 Amato said to her when they spoke. Let's look at that.

12 This is Nina DiFalco testifying.

13 "ANSWER: I said: "Baldo, I know about the affair,  
14 please, let me know what is going on."

15 This is a woman who knows that her husband had been  
16 having an affair. She's imploring this man, Baldo Amato, to  
17 tell her everything that he knows. This is a man, Baldassare  
18 Amato, who in the months preceding this conversation, had  
19 ordered the killing of this woman's husband. And, during what  
20 Baldassare Amato said to Nina DiFalco after she asked him that  
21 question.

22 "ANSWER: I said, and I remember Baldo saying, your  
23 husband met this girl Cathy and lost his head."

24 This is the man who ordered the murder of Sammy  
25 DiFalco and he says, well, you know, there's this Cathy thing.

1 There's this Cathy thing.

2 Michael D'Avonzo, the head waiter at this  
3 restaurant. Michael D'Avonzo told you that he wasn't at the  
4 restaurant the day of the disappearance. You remember that he  
5 had a family emergency, someone was ill, and Sammy said don't  
6 come in Thursday, don't come in Friday, come in Saturday. So,  
7 Michael D'Avonzo finds out that Sammy has disappeared on  
8 Saturday and he goes to the restaurant on Saturday,  
9 February 29th and he has a conversation with Baldassare Amato.  
10 Let's take a look at it.

11 "QUESTION: What did Baldassare Amato say to you and  
12 what did you say to him?"

13 "ANSWER: He said: "During what's happened here?"

14 I said: "Yes, I found this this morning;" and he said:  
15 "What do you think?" I said: "I really don't know." He  
16 said: "Do you think it's possible maybe he's with a girl,"  
17 or, in other words, gone out on a tear, or something like  
18 that; and I said: "I don't think so."

19 And you'll recall that I asked on direct  
20 examination. I asked Michael D'Avonzo who it was that brought  
21 up the notion of the girl of Cathy.

22 Do you remember what Michael D'Avonzo said?

23 "QUESTION: I just want to be clear, when you were  
24 describing the conversation between you and Baldassare Amato.  
25 Who was it that mentioned a girl?"



1 "ANSWER: I believe it was Baldassare Amato; I  
2 believe so."

3 "QUESTION: Is that something you would have  
4 mentioned?"

5 "ANSWER: I don't think so, no."

6 Baldassare Amato just didn't tell the people around  
7 him at the restaurant and Sammy's wife about this Cathy idea.  
8 Do you remember the interview with Detective Vormittag.  
9 Again, the day after Sammy DiFalco was found, let's take a  
10 look at that, March 19, 1992: During the time of Amato's  
11 employment, he knew that DiFalco had been involved with Cathy  
12 and had been seeing her on a regular basis.

13 What else did he say to Detective Vormittag?

14 "ANSWER: Amato did not recall when the  
15 relationship started but knew that at some point during the  
16 holidays," December 1991, "they broke it off, however, Cathy  
17 would continue to call."

18 This is Baldassare Amato talking to Detective  
19 Vormittag at Giannini's Restaurant on March 19th, the day  
20 after Sammy was found. What else did he say?

21 Baldassare Amato "recalled that there were several  
22 calls to DiFalco from Cathy, and Amato stated the fact that  
23 Cathy (last name unknown to Amato) would call DiFalco often.  
24 At approximate 2:30 p.m. to 2:45 p.m. on February 27, 1992,  
25 Amato recalled a telephone call to DiFalco from Cathy.

1           Finally, after this conversation was concluded,  
2 DiFalco informed Amato that Cathy was going to break it off  
3 again, but will meet me tonight. There was no other  
4 conversation in connection with this call that Amato had  
5 knowledge of."

6           You know that what Baldassare Amato was saying about  
7 the breakup happening over the holidays, December 1991, wasn't  
8 true. How do you know that? You know that because of the  
9 testimony of Michael D'Avonzo, the head waiter at the  
10 restaurant. And you will remember -- well, let's take a look  
11 at that. This is cross-examination by the way, this is  
12 cross-examination by Mr. White. He's trying to get Michael  
13 D'Avonzo to say that the relationship had ended prior to the  
14 murder."

15           "QUESTION: Were you aware of the relationship  
16 breaking off at any point?"

17           "ANSWER: No."

18           "QUESTION: In relation to Sam's disappearance, when  
19 did Cathy stop coming to the restaurant?"

20           "ANSWER: Pretty soon after his disappearance."

21           I submit to you Mr. White was a bit thrown off by  
22 that.

23           "QUESTION: Your answer is: Cathy stopped coming to  
24 the restaurant but only after Sam died?"

25           "ANSWER: Yes."

1 I submit to you, ladies and gentlemen, that what  
2 Baldo Amato was doing with respect to Cathy Ventemeglia was he  
3 was trying to deflect attention from himself. Baldassare  
4 Amato wanted everyone else: Nina DiFalco, Michael D'Avonzo,  
5 Giovanni Anunziati, Detective Jacobsen, Detective Vormittag he  
6 wanted everybody else to be looking in a different direction.  
7 Look at the affair, look at the affair. He was deflecting, he  
8 was diverting, he was shifting attention from himself. Why?  
9 You know why, because he had Sammy DiFalco killed.

10 And he told the police that he was at the restaurant  
11 even though that wasn't true because he was trying to create a  
12 false alibi, he was trying to get people to think how could I  
13 be involved? I was there when he went missing. What about  
14 the things that Baldassare Amato did not say? He was  
15 interviewed twice by N.Y.P.D. Detectives Jacobsen and  
16 Vormittag and on each occasion the detective gave Baldassare  
17 Amato a business card. Call me. Listen. Look. Call me.  
18 And both detectives told you they never heard word one as if  
19 you couldn't predict that.

20 What are some of the things that Baldassare Amato  
21 could have told the police? There is a group of guys in the  
22 neighborhood called the Ridgewood Boys and they're violent and  
23 I've seen some of them and they come into Cafe Giannini and  
24 these guys are bad guys. Paul Ragusa, you might want to go  
25 interview him. Vito Guzzo, you might want to go interview

1 him. Fabio Bartolotta, go interview view that guy. Anthony  
2 Tabbita, you might want to talk to that guy.

3 Did Baldassare Amato tell the police any of that,  
4 no. When Sammy DiFalco was found in the trunk of his only  
5 daughter Francesca's car, did Baldassare Amato pick up the  
6 phone, any phone, and call the police and say, you know, he  
7 was found in the trunk of his daughter's car and that daughter  
8 was dating a guy named Fabio Bartolotta, you might want to go  
9 interview Fabio Bartolotta. Did he do any of that? No, he  
10 did not.

11 What evidence, what else do we have that proves that  
12 Sammy DiFalco not only conspired to commit the murder of Sammy  
13 DiFalco but that he did, in fact, participate in the murder.

14 Do you remember Frank Fiordolino? I'm sure you  
15 remember Frank Fiordolino. He was the witness who came in and  
16 initially said he didn't want to testify but then he did.  
17 We'll talk a lot more about Fiordolino's testimony when we get  
18 to the gambling charges but he told you something about the  
19 DiFalco murder.

20 (Continued on the next page.)  
21  
22  
23  
24  
25

1 MR. GOLDBERG: (Continuing) What he told you and  
2 we'll get to it, what he told you flatly contradicts what  
3 Mr. White wants you to believe about the relationship between  
4 Baldo Amato and Sammy DiFalco.

5 Fiordilino's testimony reveals how Baldo Amato  
6 really felt about Sammy DiFalco and it completely contradicts  
7 the notion Baldo Amato would never be involved in a murder  
8 conspiracy with the murder of DiFalco because Baldo Amato  
9 likes Sammy, loves Sammy -- use adjective.

10 Do you remember what Frank Fiordilino told you? He  
11 told you he was walking home one day along Fresh Pond Road and  
12 he remembered that it was the day, he said, this was the day  
13 that Sammy's body was found which we can reasonably infer was  
14 the next day, March 19th, 1992 because the conversation --  
15 and we're about to talk about it -- happened in the middle of  
16 the day. The body was found at night.

17 You can infer when Frank Fiordilino tells you this  
18 is the day Sammy's body was found, he's talking about this is  
19 the day when everybody is talking about Sammy's body being  
20 found, not March 18th, March 19th, the next day. He told you  
21 it was about 2:00 o'clock or 2:30 in the afternoon and he  
22 remembered that because he was walking home from work and he  
23 told you I used to work the morning shift, which apparently  
24 ended at 2:00 o'clock or so.

25 Where is Baldo Amato? Baldo Amato is parked quietly

1 by a fire hydrant, sitting in a car and Baldo Amato flags down  
2 Frank Fiordilino.

3 Do you remember what Frank Fiordilino told you Baldo  
4 Amato said at that point? Let's look at it.

5 "QUESTION: What did Baldo Amato ask you or say to  
6 you, if anything," the day after Sammy DiFalco's dead body is  
7 found?

8 "ANSWER: He asked 'if any of the motherfuckers  
9 passed by about that piece of shit.'"

10 "QUESTION: When Baldo Amato was referring to the  
11 "motherfuckers," who did you understand him to be referring  
12 to?

13 "ANSWER: He referred to the cops as  
14 "motherfuckers." That's the way it was back then.

15 "QUESTION: So your understanding is who was Baldo  
16 referring to as "a piece of shit" in that conversation?

17 "ANSWER: Sammy DiFalco."

18 Remember, Detective Vormittag told you he had  
19 interviewed Baldo Amato at the Giannini Restaurant about 2:20,  
20 2:30 in the afternoon on March 19th, 1992 for about  
21 15 minutes? This is the same day, ladies and gentlemen, this  
22 is the same day Detective Vormittag interviews Baldo Amato at  
23 the restaurant and then the same day -- the same day --  
24 Frank Fiordilino has this conversation with Baldo Amato and  
25 actually it's the same afternoon. They're one right after

1 each other.

2           You know that from what Frank Fiordilino is saying,  
3 referring to the cops. There's activity.

4           His testimony, Frank Fiordilino's testimony, I  
5 submit to you, on this point, was one of the most powerful  
6 moments in this entire two-month trial. So much so that  
7 you'll remember on cross-examination Mr. White went right  
8 after Frank Fiordilino on this point and he tried to get Frank  
9 Fiordilino to trip up. He tried to suggest to you that Frank  
10 Fiordilino was making up this conversation, that it never  
11 happened.

12           Do you remember that? He asked Frank Fiordilino a  
13 series of detailed questions. I suggest to you what he was  
14 doing, he was trying to trip up Frank Fiordilino. What were  
15 some of the things Mr. White asked Frank Fiordilino about that  
16 day, about that conversation?

17           He asked Frank Fiordilino the directions of the  
18 various streets that Frank Fiordilino was saying he was  
19 walking around. Which way does that go, west? Does that go,  
20 east? Does it go north? Does it go south? Why is he asking  
21 that? He's testing Frank Fiordilino.

22           Another question, what side of the street were you  
23 walking on, Frank Fiordilino? What side of the street were  
24 you walking on? He asked him whether or not Baldo Amato had  
25 actually waved down Frank Fiordilino. He asked him whether

1 Baldo Amato's car was stopped at a light or parked by a fire  
2 hydrant. He asked Frank Fiordilino what side of the car  
3 Fiordilino was on when he was talking to Baldo Amato, lots of  
4 details he's asking. He asked him what kind of car. He asked  
5 him whether the window to the car was rolled up or rolled  
6 down. He asked him how long the conversation lasted. He  
7 asked him was the conversation in Italian? Was it in English?  
8 He asked him whether Baldo Amato closed the window before  
9 Baldo Amato drove away.

10 Frank Fiordilino was unphased. You know why Frank  
11 Fiordilino was unphased. Because you know Frank Fiordilino  
12 was telling the truth about that day and about that  
13 conversation. Mr. White tried to trip him up with one more  
14 question -- one more question. He said Mr. Frank Fiordilino,  
15 is there anything else in particular you remember about that  
16 day? Is there anything else in particular you remember about  
17 that day?

18 Do you remember what Frank Fiordilino answered in an  
19 unguarded moment? Remember what he answered? It was snowing.  
20 There was snow on the ground, March 19th, 1992. Frank  
21 Fiordilino on cross-examination says yeah, I remember it was  
22 snowing. There was snow on the ground.

23 Let's look at Frank Fiordilino's testimony.

24 "QUESTION: Was there anything special about that  
25 day to you personally?



1 "ANSWER: Yes, it was snowing."

2 (Courtroom alarm sounds.)

3 "QUESTION: It was snowing?

4 "ANSWER: Yeah, there was snow on the ground."

5 Ladies and gentlemen -- your Honor?

6 (Courtroom alarm sounds.)

7 MR. GOLDBERG: (Continuing) We were talking  
8 about the conversation that Frank Fiordilino had with Baldo  
9 Amato in the early afternoon of March 19th, 1992, the day  
10 after Sammy's body was found and right after the time that  
11 Detective Vormittag interviewed Baldo Amato. Mr. White asked  
12 a series of questions trying to trip up Frank Fiordilino and  
13 then he asked one more question and Frank Fiordilino said  
14 yeah, I remember something about that day also. It was  
15 snowing. There was snow on the ground.

16 Was there snow on the ground on March 19th, 1992  
17 like Frank Fiordilino told you from that witness stand? Was  
18 there snow on the ground on that day?

19 This was the court taking judicial notice.

20 "On March 18th, 1992, LaGuardia Airport in Queens,  
21 New York, reported snowfall beginning at approximately 11:00  
22 p.m. and continuing until about 7:00 p.m. on March 19th.

23 It was further reported that as of 2:00 p.m. in the  
24 afternoon on March 19th, 1992, there were approximately six  
25 inches of snow on the ground.

1           Lastly, there was no snowfall from March 1st through  
2   March 17th, 1992, nor was there any snowfall on either  
3   March 20th or 21."

4           Frank Fiordilino told you there was snow on the  
5   ground. You know that he was telling the truth. There wasn't  
6   any snow on the ground from March 1st all the way through the  
7   evening of March 18 and then there's snow on the ground. Then  
8   there's no snow anymore. The exact day that Frank Fiordilino  
9   is talking about is the only day in that stretch of days that  
10   has snow on the ground. You know, ladies and gentlemen, that  
11   that conversation between Frank Fiordilino and Baldo Amato  
12   happened. You know Frank Fiordilino is telling the truth when  
13   he tells you I got flagged down by Baldo Amato on a snowy day,  
14   the day after Sammy was found and Baldo Amato called Sammy  
15   DiFalco a piece of shit. You know he's telling the truth.

16           Use your common sense, ladies and gentlemen. Baldo  
17   Amato wouldn't refer to Sammy DiFalco, a man who had been  
18   missing for weeks and just the night before had been found  
19   stuffed in the back of a car, he wouldn't call that man a  
20   piece of shit unless he was glad he was dead.

21           How did the defense respond to this mountain of  
22   evidence? During Mr. Whites cross-examination, one primary  
23   defense emerged. Let me talk briefly about it and let me tell  
24   you why you can easily reject it.

25           He tried to suggest that Fabio Bartolotta was the

1 real killer and Fabio Bartolotta killed Sammy DiFalco because  
2 Fabio Bartolotta was angry about the fact that Fabio and  
3 Sammy's daughter, Francesca, had stopped dating. The  
4 evidence, ladies and gentlemen, shows you that this defense  
5 theory makes no sense.

6 First, the evidence in the record is that Fabio  
7 Bartolotta and Francesca DiFalco broke up two years before the  
8 murder. Remember what Nina DiFalco told you about the timing  
9 of it all?

10 "QUESTION: How old was Francesca when Fabio and  
11 she stopped dating?

12 "ANSWER: 16.

13 "QUESTION: 1990?

14 "ANSWER: Yes."

15 1990.

16 You recall that on cross-examination Mr. White honed  
17 in on this fact. He tried to get Nina DiFalco to say that the  
18 breakup between Fabio Bartolotta and Nina DiFalco's daughter,  
19 Francesca, had happened later, had happened closer to  
20 February, 1992.

21 Do you remember that cross-examination? Let's look  
22 at it.

23 "QUESTION: Just want to ask you a few questions  
24 about Francesca dating Fabio Bartolotta. How old was  
25 Francesca about at that time?

1 "ANSWER: 15 and a half.

2 "QUESTION: 15 and a half. And she was born in  
3 1974?

4 "ANSWER: Yes.

5 "QUESTION: So this would have been '89, '90, or  
6 so?"

7 Or so? Nina DiFalco says "exactly."

8 In her direct testimony she says 1990. They didn't  
9 break up just before the murder. Fabio Bartolotta and  
10 Francesca DiFalco broke up two years before the murder.

11 How else do you know this defense theory doesn't  
12 make any sense? All of the evidence in this trial suggests  
13 that Sammy DiFalco and Fabio Bartolotta had a good  
14 relationship. You recall that Nina DiFalco said that Fabio  
15 Bartolotta viewed Sammy as a father figure. That's the kind  
16 of relationship they had. They traveled to Italy together.  
17 They liked each other. Fabio Bartolotta looked to Sammy as  
18 his father.

19 You'll recall that Nina DiFalco testified she wasn't  
20 too keen on her daughter, Francesca, dating Fabio Bartolotta;  
21 that she had a conversation with her husband, Sammy, about  
22 that. She said I don't feel comfortable with Fabio dating  
23 Francesca.

24 You remember what Sammy told Nina? Sammy told Nina,  
25 it's all right, it's okay. Sammy DiFalco supported the

1 relationship between Fabio Bartolotta and Francesca DiFalco.

2 Does it make any sense that Fabio Bartolotta would  
3 want to kill the man who's his father figure, the man who  
4 actually wants his daughter to keep dating Fabio Bartolotta?  
5 It doesn't make any sense. It doesn't make any sense, ladies  
6 and gentlemen. The relationship ended two years prior.

7 Mr. White, with regard to that defense theory, is  
8 asking you to take a leap that is completely unsupported by  
9 the evidence, is based purely on speculation. I submit to  
10 you, ladies and gentlemen, that the angry boyfriend defense  
11 makes no sense, is no defense at all.

12 Ladies and gentlemen, Baldo Amato ordered Sal  
13 Montana, Little Sal, Anthony Tabbita and Vito Guzzo to kill  
14 Sammy DiFalco and he tried to carry out this order in the  
15 restaurant on that day.

16 Baldo Amato was watching. Baldo Amato was watching  
17 that day from the same table when Sammy DiFalco surprisingly  
18 said, you know what, take my keys. Go look at the store.  
19 Take my keys.

20 Anthony Tabbita went to jail. Baldo Amato and his  
21 associates then finished what he had started. On  
22 February 27th, 1992, he had Sammy DiFalco lured out of  
23 Giannini Restaurant and it worked this time. It worked this  
24 time. Baldo Amato had Sam DiFalco shot and killed and left in  
25 a Brooklyn parking lot; that Baldo Amato quietly monitored the

1 entire situation.

2 A couple of days later, he listened carefully at the  
3 DiFalco residence when the police interviewed Nina DiFalco and  
4 then he lied to the police himself about being at the  
5 restaurant on the day Sammy went missing. Baldo Amato lied  
6 again on March 19th, the day after Sammy was found, and then  
7 he sat quietly and he watched. He sat in that parked car and  
8 he flagged down Frank Fiordilino and he showed his true  
9 colors. He showed his true feelings about Sammy DiFalco. He  
10 called him a piece of shit, and in the end the boss of the  
11 Bonanno Organized Crime Family, Joseph Massino and the  
12 underboss of the crime family, Sal Vitale, knew exactly what  
13 happened. Baldo Amato was responsible for conspiring to  
14 murder and to murder Sammy DiFalco.

15 I submit to you, ladies and gentlemen, that we've  
16 proven beyond a reasonable doubt that Sammy DiFalco committed  
17 racketeering act number six; that Baldo Amato committed  
18 racketeering act number six and that powerful evidence that he  
19 agreed to participate in the conduct of the affairs of the  
20 Bonanno Organized Crime Family with Bonanno associates and as  
21 a Bonanno soldier.

22 The next racketeering act, ladies and gentlemen is  
23 racketeering act -- we'll skip one, go to racketeering act  
24 number eight which also charges Baldo Amato. It's conspiracy  
25 to rob Cafe Vienna.

1 I submit to you the evidence supporting this  
2 racketeering act is overwhelming and cannot be challenged.  
3 Cafe Vienna also tells us a great deal that shed a lot of  
4 light on whether Anthony Tabbita was a truthful witness when  
5 he took that stand and it teaches us a lot about how Baldo  
6 Amato operates, using violence -- using violence -- to  
7 eliminate threats to his illegal Bonanno profits.

8 How did we prove this racketeering act to you? We  
9 presented the testimony of Anthony Tabbita who actually  
10 participated in the robbery. We presented the testimony of  
11 Antonino Pampalone who was one of the victims of the robbery  
12 and you also heard from Detective Manny Gomez who was the  
13 person who responded to the robbery call.

14 What did Anthony Tabbita tell you? You recall that  
15 Tabbita pled guilty to committing this robbery. Let's look at  
16 what he told you.

17 "QUESTION: How did you become involved in Cafe  
18 Vienna robbery, what happened?

19 "ANSWER: Vito Guzzo came to me and said Baldo  
20 Amato needs a coffee shop broken up and I put some of my  
21 friends together. I believe we did the robbery the same  
22 night.

23 "QUESTION: Did you have a discussion with Vito  
24 Guzzo about why Baldo Amato wanted this coffee shop broken up?

25 "ANSWER: Something to do with a soccer club.

1 "QUESTION: What was wrong with Cafe Vienna having  
2 a soccer club?

3 "ANSWER: Instead of going to Giannini's, they  
4 were going to Cafe Vienna.

5 "QUESTION: They were diverting business?

6 "ANSWER: Yes."

7 So, on Baldo Amato's orders, Anthony Tabbita and his  
8 friends, mob associates like Vito Guzzo and Anthony Aiello who  
9 later became a made member in the Bonanno Organized Crime  
10 Family, gave Cafe Vienna a mob message, a Baldo Amato message.  
11 Don't you dare compete with Baldo Amato's Cafe Giannini.  
12 Don't you dare do anything that would take people away from my  
13 cafe, away from my illegal gambling. Don't you dare threaten  
14 the profits of the of a Bonanno soldier.

15 Who else told you about the robbery? You heard from  
16 Antonino Pampalone, the victim, one of the victims. He was in  
17 the Cafe Vienna when Anthony Tabbita, Vito Guzzo, Anthony  
18 Aiello and others stormed in. He told you how he was forced  
19 to the ground, dragged to the back of the room and robbed.  
20 You remember his testimony?

21 "QUESTION: What happened?

22 "ANSWER: I was watching TV and I face to my left  
23 and I see two guys come with masks and two guns.

24 "QUESTION: Did they point the guns at you at all?

25 "ANSWER: Yes, sir.



1 "QUESTION: Were you scared?

2 "ANSWER: Of course I was scared."

3 Many Gomez, the NYPD detective, also told you how  
4 when he arrived at the scene, the place was a mess. The place  
5 had been broken up very bad. He also told you they were  
6 unable -- remember this -- they were unable to find any  
7 fingerprints.

8 What else did Tabbita tell you? Tabbita told you  
9 that Baldo Amato, through Vito Guzzo, paid him money for this  
10 piece of destructive handiwork. Let's look at it.

11 "QUESTION: You mentioned that you got \$5,000 for  
12 the Cafe Vienna robbery?

13 "ANSWER: Yes.

14 "QUESTION: Who was it from?

15 "ANSWER: I was told it came from Baldo.

16 "QUESTION: Who told you that?

17 "ANSWER: Vito Guzzo.

18 "QUESTION: What did he say the \$5,000 was for?

19 "ANSWER: Breaking up the coffee shop.

20 "QUESTION: On behalf of Baldo Amato?

21 "ANSWER: Yes."

22 Anything backing that up? Anything backing up the  
23 testimony of Anthony Tabbita how about Baldo Amato's guilty  
24 plea in 2000 saying yes, I ordered Cafe Vienna robbed? You  
25 know Anthony Tabbita is telling the truth.

1           The evidence, ladies and gentlemen, on this is  
2 airtight. I submit to you we've proven beyond a reasonable  
3 doubt that Baldo Amato committed racketeering act number  
4 eight, the Cafe Vienna robbery conspiracy and this is further  
5 evidence that Baldo Amato agreed to participate in the conduct  
6 of the affairs of the Bonanno Organized Crime Family.

7           Before we move on to the next racketeering act, I'm  
8 going to spend a Little Sal more time on Cafe Vienna because  
9 Cafe Vienna, the racketeering act, is devastating evidence in  
10 this case about Baldo Amato's involvement in the Bonanno  
11 Organized Crime Family, about his participation in illegal  
12 gambling operations and about Baldo Amato's use of violence to  
13 settle money disputes.

14           What can we learn from the Cafe Vienna robbery?  
15 Well, we can learn a lot of things H I want to focus you on  
16 two main points. First, the Cafe Vienna robbery demonstrates  
17 that Anthony Tabbita was being truthful when he was on that  
18 witness stand.

19           Second, the way the Cafe Vienna robbery was carried  
20 out tells you a lot about how Baldo Amato operates.

21           So, what did Anthony Tabbita tell you and how you  
22 know that he was a truthful witness when he was on the witness  
23 stand? Let's look at the first few things that Anthony  
24 Tabbita told you about Cafe Vienna's robbery. He said that  
25 the robbery was carried out at night. You know that Anthony

1 Tabbita was telling the truth. Antonino Pampalone, one of the  
2 robbery victims, told you the robbery occurred shortly after  
3 10:30 p.m. Manny Gomez said the 911 call came in around 11:30  
4 p.m. You know Anthony Tabbita was telling you the truth.

5 What else did Anthony Tabbita tell you about Cafe  
6 Vienna? Tabbita told you that two to three robbers, including  
7 himself, entered Cafe Vienna first wearing ski masks and with  
8 guns drawn. Two patrons were in the front room. Tabbita and  
9 others pointed their guns and ordered the patrons to the back  
10 room.

11 Was Anthony Tabbita telling you the truth? Well, he  
12 also told you about Vito Guzzo.

13 MR. ANDRES: Anthony Tabbita entered and he pointed  
14 the gun. Let's look at Pampalone's testimony.

15 "QUESTION: Was there anyone else in the front room  
16 when you were there?

17 "ANSWER: Myself, the worker and another customer.

18 "QUESTION: Three of you?

19 "ANSWER: Three of us.

20 "QUESTION: Sir, what happened next?

21 "ANSWER: I was watching TV, I faces to my left, I  
22 see two guys come with masks and two guns." This is the  
23 testimony of Antonino Pampalone as compared with the testimony  
24 of Anthony Tabbita . Pampalone also told you:

25 "QUESTION: What happened next?

1           "ANSWER:    Next what happened, they dragged me in  
2 the front of the room to the back of the room and I was face  
3 down, too."

4           You know Anthony Tabbita was being a truthful  
5 witness. What else did Anthony Tabbita tell you about the  
6 Cafe Vienna robbery?

7           He told you that the patrons in the front complied.  
8 The back room was full of patrons. Tabbita and others ordered  
9 everyone to the ground and then they robbed the patrons. Was  
10 Anthony Tabbita telling you the truth from that witness stand?  
11 What did Pampalone, the robbery victim, tell you?

12          "QUESTION:   Were you able to determine if anybody  
13 else was in the back room?

14          "ANSWER:    I would say about five, ten people.

15          "QUESTION:   Did they say anything about your watch?

16          "ANSWER:    They say if you have jewelry, if you  
17 have money, if you have a watch, if you have a wallet, take  
18 everything out.

19          "QUESTION:   Did you have a watch?

20          "ANSWER:    I had a watch and a \$50 bill.

21          "QUESTION:   What did you do with your watch and the  
22 \$50 bill?

23          "ANSWER:    I put right in front of me on the floor.  
24 They took it out, the watch and the money."

25          Is Anthony Tabbita telling the truth?

1           Was he a truthful witness backed up by the testimony  
2 of someone else who was there?

3           What's the last thing that Anthony Tabbita told you  
4 about the Cafe Vienna robbery? That cafe was vandalized with  
5 sledge hammers. Was Anthony Tabbita a truthful witness in  
6 this courtroom? What did Manny Gomez, the detective, tell  
7 you?

8           "QUESTION: What was the condition of the rest of  
9 the cafe?

10          "ANSWER: When you first walked in, the counter  
11 was smashed and a few of the tables were smashed in front.

12          "QUESTION: What do you mean smashed?

13          "ANSWER: Just broken, legs broken down, smashed  
14 down. The glass counters were smashed, glass all over the  
15 place."

16          Was Anthony Tabbita telling you the truth? You know  
17 he was telling you the truth. You know that he was being a  
18 truthful witness.

19          Lastly, Anthony Tabbita told you something else,  
20 that the robbery was ordered because Cafe Giannini had a  
21 competing soccer club. He told you about the motive. Is  
22 there any dependent evidence backing that up?

23          Photographs taken on the outside and the inside of  
24 Cafe Giannini in July of 1997, the Cafe Vienna robbery was  
25 March, 1997. Photographs taken at the Cafe Giannini only four

1 months later, the very top Cafe Giannini sign, what does it  
2 say at the very top? Inter Club Moratti USA. Soccer club.  
3 Soccer club. Inside the cafe there was a door. We put this  
4 up on the Elmo during the trial, it says Inter Club Moratti  
5 USA. Right below, you can't see it. I'll read it. Right  
6 below it says members only. You know Anthony Tabbita was  
7 telling you the full truth, the whole truth when he talked to  
8 you about Cafe Vienna. You know that Anthony Tabbita was a  
9 truthful witness during this trial.

10 The Cafe Vienna robbery also tells you a lot about  
11 how Baldo Amato does business. Let's look at some of the  
12 things that the Cafe Vienna robbery teaches us.

13 First, Baldo Amato is willing to use violence to  
14 resolve financial disputes. The dispute in Cafe Vienna wasn't  
15 about soccer, it was about money, it was about money, ladies  
16 and gentlemen. He was losing business. He was losing money  
17 to Cafe Vienna. How did Baldo Amato deal with that? Did he  
18 advertise more? Did he pass out flyers? Did he talk to the  
19 patrons, try to convince them to come to his cafe, to his  
20 soccer club? No, Baldo Amato resorted to violence.

21 What else does it teach us? Baldo Amato is willing  
22 to order others to commit violent crimes for him. Baldo Amato  
23 wasn't at the Cafe Vienna robbery. He used others. He used  
24 associates. He used his henchmen, Vito Guzzo, Anthony  
25 Tabbita, others, Anthony Aiello. Don't be fooled about

1 Mr. White's argument that Baldo Amato had nothing to do with  
2 the Ridgewood Boys. All of the evidence presented, Tabbita's  
3 testimony, Fiordilino's testimony, Baldo Amato visiting  
4 Anthony Tabbita in jail multiple times in the early 1990s,  
5 Baldo Amato sitting down for these guys over the years, all of  
6 that evidence shows that Baldo Amato knew these guys very well  
7 and dealt with them all the time and vice versa.

8           What else does Cafe Vienna teach us? Those who  
9 commit violent crimes for Baldo Amato will not necessarily  
10 have direct conversations with him about those crimes. You  
11 remember in Cafe Vienna and Anthony Tabbita was involved in  
12 that, pled guilty to it. He said he basically got all the  
13 orders and the payment through Vito Guzzo. He didn't really  
14 talk to Baldo Amato directly about that crime. What does that  
15 tell you about the Sammy DiFalco murder? Anthony Tabbita  
16 didn't talk directly with Baldo Amato about that murder. He  
17 operated through associates, Sal Montana, Little Sal  
18 beforehand.

19           Just because there are no fingerprints tying someone  
20 to a crime scene does not mean that the person is innocent.  
21 Manny Gomez, the Cafe Vienna NYPD police officer, told you  
22 there were no fingerprints taken. Yet, Baldo Amato was guilty  
23 of that crime. So, don't be fooled by the argument that I  
24 expect you might hear with respect to DiFalco there are no  
25 fingerprints tying anything to Baldo Amato. He can't be

1 guilty because there's no fingerprints.

2 All this with the Cafe Vienna, it all sounds very  
3 familiar, doesn't it? This shows you even more how Baldo  
4 Amato is in fact guilty of killing Sammy DiFalco. Baldo Amato  
5 killed Sammy DiFalco because there was a dispute over money.  
6 Baldo Amato enlisted others in the DiFalco conspiracy to  
7 murder, Vito Guzzo, Anthony Tabbita, Baldo Amato did not have  
8 direct contact with everyone involved. Tabbita told you he  
9 got everything through Montana and Little Sal. No  
10 fingerprints putting Baldo Amato at the scene of the DiFalco  
11 murder. Yet we know he ordered it. You know he's guilty of  
12 it. So, ladies and gentlemen, not only have we proven beyond  
13 a reasonable doubt that Baldo Amato did in fact commit  
14 racketeering act number eight, we have shown you through Cafe  
15 Vienna how Anthony Tabbita was a truthful witness and how  
16 Baldo Amato operates, carefully, violently and insulating  
17 himself through the use of associates.

18 THE COURT: I think we should take a short break.  
19 Let's take a five minutes break. All rise for the jury.

20 (Jury leaves courtroom.)

21 THE COURT: We'll take five minutes and take lunch  
22 at 1:00 o'clock. Do you think you'll be done by 1:00 o'clock?

23 MR. GOLDBERG: It's quite conceivable, but  
24 close. I'll try.

25 THE COURT: Thank you. (Continued on next page.)



1 (The following occurred in the absence of the jury.)

2 THE COURT: All right.

3 MR. BURETTA: May we have about three minutes? We  
4 are just cutting some things out so we can shorten it.

5 THE COURT: For that I will give you three minutes.

6 MR. GOLDBERG: I won't take that personally.

7 THE COURT: No, don't.

8 (Pause.)

9 MR. BATCHELDER: Your Honor, Mr. Locurto has another  
10 application.

11 THE COURT: Let's take a side bar.

12 Are you almost ready?

13 MR. GOLDBERG: We are.

14 THE COURT: Let's take a side bar.

15 Is everybody here?

16 (Side bar.)

17 MR. BATCHELDER: Your Honor, Mr. Locurto has  
18 requested concerning, based on the government's summation,  
19 that Mr. Massino as a boss but not Mr. Massino as a  
20 cooperator, or as -- as a cooperator, and he believes that we  
21 should be allowed to refer to Mr. Massino during the summation  
22 as a cooperator.

23 THE DEFENDANT LOCURTO: Some type of government  
24 agent.

25 MR. BATCHELDER: He can perhaps expand on that.

1 THE DEFENDANT LOCURTO: No. Go ahead.

2 MR. BATCHELDER: And that's what he wishes me to  
3 bring to the Court's attention, especially since the  
4 government has used conversations with Mr. Massino during the  
5 summation as -- that he was a boss and he can be credited,  
6 when in fact he is a cooperator at this point.

7 MR. BURETTA: That fact is not in the record. So it  
8 would be inappropriate to refer to it. The Court ruled on  
9 that pretrial.

10 MR. BATCHELDER: The Court also ruled on that I  
11 think in the Basciano also. I remember reading.

12 THE COURT: Repeatedly.

13 MR. BATCHELDER: Yes.

14 THE COURT: The application is denied.

15 MR. BATCHELDER: Thank you, sir.

16 THE COURT: It is not part of the record. I would  
17 also point out that the alleged conversations involving  
18 Mr. Massino, as far as I know, all took place prior to his  
19 conviction in July of 2004, after a jury trial.

20 MR. BATCHELDER: Thank you, Your Honor.

21 THE DEFENDANT LOCURTO: Thank you.

22 (In open court.)

23 THE COURT: Bring in the jury, please.

24 (Jury present.)

25 THE COURT: Please be seated. Please be seated.

1 All right, Mr. Goldberg, please continue.

2 MR. GOLDBERG: Thank you, Your Honor.

3 All right. We have four areas to go through, left.

4 I will do my darndest to get it done before lunch.

5 We have the Robert Perrino murder to talk about. We  
6 have Stephen Locurto's ecstasy dealing. We have Anthony  
7 Basil's loansharking, and then we have gambling charges.

8 So let's talk about the Robert Perrino murder, which  
9 is racketeering act number seven in which both Baldo Amato and  
10 Anthony Basile are charged.

11 This happened in May 1992, just a few months after  
12 the Sammy DiFalco murder. So who was Robert Perrino? There  
13 was plenty of testimony about the fact that Robert Perrino  
14 worked at the New York Post and that he was in charge of the  
15 deliveries and there was just as much testimony about the fact  
16 that the Bonanno Organized Crime Family had its hooks in the  
17 New York Post, making money in a variety of ways, a variety of  
18 illegal ways, including through Robert Perrino, who was a  
19 Bonanno associate.

20 Sal Vitale told you that the Bonanno Crime Family  
21 had infiltrated the New York Post. Joey D'Amico told you they  
22 were making money in a variety of ways, including no-show  
23 jobs.

24 You also learned that by 1991, the New York State  
25 police was investigating the Bonanno Crime Family's influence

1 over the New York Post. You will remember not too long ago  
2 Terry Dwyer from the New York State police came in and he told  
3 you that in January 1992, just four months before Robert  
4 Perrino's murder, in January 1992, the New York State police  
5 executed search warrants at nine locations, including the  
6 residence of Robert Perrino.

7 You heard from Nicki Laronga, Nicki Perrino Laronga,  
8 Robert Perrino's daughter. She told you she remembered the  
9 search that day.

10 And what was found during the search?

11 Terry Dwyer told you that they found a number of  
12 interesting documents. First, you saw an article that Robert  
13 Perrino had cut out about the murder of Tony Mirra, who was a  
14 made guy in the Bonanno Family, and that was a murder that  
15 Joseph D'Amico was involved in. He pled guilty to it. He  
16 told you about it. We showed you a New York Post pay stub for  
17 a Tony Murro, M U R R O, and you will recall that Joseph  
18 D'Amico was somewhat offended by that because the New York  
19 Post was using that name -- the Bonanno Crime Family was using  
20 that name to make money without telling him.

21 What else did Terry Dwyer and the New York State  
22 police find in Robert Perrino's home? They also found on Bob  
23 Perrino New York Post stationery handwritten directions to  
24 someone's house. Whose house? Sal Vitale's house.

25 They also found Robert Perrino's phone book, with a

1 number of entries of names you know by now. Richie  
2 Cantarella, Goldie, who is Duane Lisenheimer, a Bonanno  
3 associate, and Tommy K.

4 Terry Dwyer also told you about a listening device,  
5 a bug, that the New York State police had secretly installed  
6 in Robert Perrino's office, the same bug that Joseph D'Amico  
7 had told you about. Remember what happened? Dwyer said that  
8 on February 10th, 1992, just two weeks before Sammy DiFalco  
9 disappeared, by the way, the New York State police actually  
10 went in and removed the bug from Robert Perrino's office and  
11 there were people there when they did it. Robert Perrino was  
12 there. Joey D'Amico was there. He told you about this.  
13 Richard Cantarella was there.

14 So we know that Robert Perrino and others in the  
15 Bonanno Organized Crime Family knew that as of February 1992,  
16 the investigation into the Bonanno Organized Crime Family's  
17 influence over the New York Post was heating up.

18 Ladies and gentlemen, that's when a plan was hatched  
19 to kill Robert Perrino. Sal Vitale told you that those in the  
20 Bonanno Organized Crime Family closest to the New York  
21 portion, people like Richard Cantarella, became convinced that  
22 Robert Perrino was a potential weak link. They became  
23 convinced that Robert Perrino was someone who, if indicted,  
24 might cooperate with the authorities and expose all about --  
25 expose everything about the Bonanno Organized Crime Family's

1 control over the New York Post.

2 So Sal Vitale told you that he talked about these  
3 concerns with Anthony Spero, the consiglieri, and they made a  
4 decision. What was the decision? The decision was that  
5 Robert Perrino had to be killed.

6 So what happened next? Sal Vitale explained to you  
7 that the Bonanno Organized Crime Family had a splinter group  
8 in Canada, in Canada, and Anthony Spero thought it would be a  
9 good idea to bring in shooters from Canada, have them commit  
10 the murder, and then head right back to Canada.

11 So Sal Vitale reached out to none other than George  
12 from Canada, who you know to be Gerlando Sciascia. He said  
13 get me some shooters from Canada.

14 They had a meeting. Sal Vitale had a meeting and  
15 George from Canada said I'll be -- I will get back to you in  
16 about a week.

17 So what happened the following week? Sal Vitale and  
18 George from Canada met at a diner, and do you remember who  
19 else was with George from Canada at that meeting?

20 Question: Tell the jury who said what at the Stage  
21 Diner when you were there, when Baldo Amato was there and when  
22 George from Canada was there.

23 Well, George said, quote, it was hard to get men  
24 across the border from Canada, that they had a lot of heat  
25 there. So Baldo said he'll take care of it, and I talked to

1 Baldo, take Baldo. Baldo turned around to me and says to me,  
2 quote, Mr. Sal, I'll take care of it. Don't worry about it.  
3 You bring the guy and don't worry about it. I'll take care of  
4 it. I'll kill him.

5 Is there any other independent evidence, by the way,  
6 that Gerlando Sciascia, George from Canada, was close with  
7 Baldo Amato? Well, a lot of witnesses told you that.

8 You also saw prison visit records from after 2000,  
9 more recent than 2000, where Sciascia family members are on  
10 the visitor list, visitor authorization forms for Baldo Amato.  
11 You remember some of those things. They wrote family friend,  
12 known him all my life. That sort of thing.

13 You know the witnesses are telling you the truth  
14 when they say that George from Canada was close with Baldo  
15 Amato.

16 So what happens next? Sal Vitale enlists Frank  
17 Lino's crew for a murder location and for disposal of the body  
18 itself.

19 Around that same time that Vitale secured Baldo  
20 Amato as a shooter -- I'm sorry. Frank Lino told how he and  
21 his crew were at a wake. Sal Vitale and Anthony Spero  
22 approached Frank Lino and told Frank Lino that they wanted him  
23 and his crew to find the place to commit a murder, to get rid  
24 of the murder victim. Lino explained to you that for the  
25 disposal location, Robert Lino, Junior, and Robert Trimaldi,

1 who were close to Jimmy LaBate, an associate of the Gambino  
2 Family, but who would help the Bonanno Family on this murder.  
3 Robert Lino, Junior and Robert Trimaldi reached out to Jimmy  
4 LaBate. What did Jimmy LaBate have to offer? Jimmy LaBate  
5 had a yard in State Island with construction equipment, back  
6 hoes and things like that. They went to Frank Lino and they  
7 said, Jimmy LaBate is willing to use his yard as a place to  
8 get rid of the body.

9 Then Frank Lino also told you about where the murder  
10 was going to occur. Let's take a look at that.

11 Question: How did you go about finding a place for  
12 the murder itself?

13 Answer: Well, when Robert Trimaldi and Robert Lino  
14 told me about Jimmy LaBate, they said that the kid Anthony is  
15 willing to lend us his club, it has a bar.

16 Question: The kid Anthony, Anthony who?

17 Answer: Basile.

18 Question: What was the location that Anthony Basile  
19 had?

20 Answer: He had a place on 86th Street, between  
21 20th Avenue and 19th Avenue.

22 Well, there has been a lot of testimony recently on  
23 this. We know that Anthony Basile had a bar. On his defense  
24 case, his witnesses told you that, but we also told you that.  
25 You will remember the wiretap we played, where Anthony Basile



1 tells Fred Puglisi I am going to my bar. So we know he had a  
2 bar. There is no dispute about that.

3 Ambrosino also told you that the murder occurred at  
4 Basile's bar and that it was called Allie's. This, of course,  
5 was confirmed in the defense case, when you saw Allie's place.

6 So what happened next? Well, you will remember that  
7 Frank Lino told you that he had a face-to-face meeting with  
8 Anthony Basile, a face-to-face meeting, and where was the  
9 meeting? At the Richlieu diner. You will remember there was  
10 cross-examination about this. Why didn't you have it at the  
11 social club? Well, the Richlieu diner, as you know by now,  
12 was right near Anthony Basile's bar.

13 Let's look at what was discussed.

14 Question: What did you say to Anthony Basile and  
15 what did he say to you?

16 Answer: I said you are willing to lend us to use  
17 your place for this killing, we're not going to do the killing  
18 and I said our job is to leave the door open, whoever the  
19 killer is will go in before. Somebody is going to bring this  
20 fellow to a meeting. He's going to get killed and then we all  
21 had to go there and get rid of the body.

22 Question: Did Anthony Basile agree to use his bar  
23 for the murder of Bobby Perrino?

24 Answer: Yes.

25 There was one more piece of the plan. Sal Vitale

1 explained to you how he approached Mikey Batts Cardello,  
2 another captain and he enlisted him to be the person who would  
3 walk Robert Perrino into Basile's bar.

4           When did the murder occur? When did the murder  
5 occur? Well, there was plenty of testimony about this. You  
6 will remember the back and forth early in this trial when Sal  
7 Vitale told you about his son's birthday and there was a  
8 birthday party. It was the birthday party on the day of his  
9 birthday. You will remember that back and forth, a lot of  
10 cross-examination from Ms. Laser on that point.

11           But after hearing all of that and hearing all the  
12 testimony in this trial, you know that Robert Perrino was  
13 killed on Monday night, May 4, 1992. Monday night, May 4,  
14 1992.

15           How do you know that? Well, you will remember Nicki  
16 Laronga. Robert Perrino's daughter. She told that you she  
17 had dinner with her father on the night of May 4, 1992, and  
18 you will recall that she said Robert Perrino, her father, was  
19 not himself, that he didn't even want to hold his new  
20 grandson.

21           Let's take look at that testimony.

22           Question: When your father Robert Perrino came to  
23 dinner on May 4, 1992, what was his demeanor like?

24           Answer: He was very quiet. He was not himself. He  
25 definitely had a lot on his mind. He didn't even want to hold

1 my son. He just sat there watching television with my  
2 daughter, with my daughter on his lap, and he never held his  
3 grandson. He just was not himself.

4 Nicki Laronga also told you important powerful  
5 evidence. She also told you that her father was in a rush to  
6 leave after dinner, that he was going to a meeting in  
7 Brooklyn, but that he was evasive when she asked him who he  
8 was meeting with.

9 Nicki Laronga told that you her father left around  
10 6:00 o'clock or 7:00 o'clock at night on Friday, May 4, 1992.  
11 He was driving a Chevy --

12 MR. WHITE: I object to the Friday, Your Honor.

13 MR. GOLDBERG: I'm sorry. Monday, May 4, 1992.

14 Laronga told you that her father left around 6:00  
15 o'clock or 7:00 o'clock on Monday, May 4, 1992, that he was  
16 driving his Chevy Blazer and that was the last time she ever  
17 saw him.

18 The next day, May 5, 1992, she and her family filed  
19 a missing persons report. So we know that Robert Perrino was  
20 killed on Monday night, sometime after 6:00 or 7:00 o'clock on  
21 Monday, May 4, 1992.

22 Did anybody else tell you that? Well, Frank Lino,  
23 Frank Lino told you the murder was at night. You know he was  
24 telling the truth.

25 This is all consistent with what Frank Ambrosino

1 told you. You will remember this posterboard. It is  
2 Government Exhibit 68. These were photos from the christening  
3 of Frank Ambrosino's son, June 12, 1992. Ambrosino told you  
4 that the murder occurred -- Frank Ambrosino was involved in  
5 this murder -- that the murder occurred one month before the  
6 christening.

7 Who is in these photos? Robert Lino, Junior, Frank  
8 Lino, Anthony Basile sitting right next to Frank Lino, Robert  
9 Trimaldi, all people involved in the Robert Perrino murder.

10 Why is this significant? It is significant for a  
11 number of reasons. First of all, it backs up Sal Vitale's  
12 testimony when he told you about when the murder occurred. He  
13 said that I have a son who was born on May 3rd and I have a  
14 son who was born on May 6th. My wife planned a party for May  
15 5th or May 4th, so I couldn't be there. You know he was  
16 telling the truth.

17 Second, remember the parking tickets, remember the  
18 parking tickets? A lot of discussion about the parking  
19 tickets. Robert Perrino's Chevy Blazer was ticketed three  
20 times the morning after Monday night, May 4, 1992. Where was  
21 it ticketed?

22 Do you remember the testimony of the defense  
23 investigator?

24 How far of a walk is it from where Robert Perrino's  
25 car was ticketed on May 5, 1992, at 7:30 am, to Anthony

1 Basil's bar at 1972 86th Street, on the second floor? How far  
2 a walk is that?

3 Answer: It is not far.

4 Question: How long would it take to walk?

5 A minute.

6 So what happened on Monday night, May 4, 1992, how  
7 was the murder carried out?

8 Well, we know from Frank Lino that Anthony Basile  
9 was instructed to leave his bar unlocked so that the shooter  
10 could get inside ahead -- I'm sorry -- the shooter could get  
11 inside ahead of Mikey Batts Cardello and Robert Perrino, the  
12 victim.

13 We also know from Frank Lino that he and Robert  
14 Trimaldi were stationed at the Richlieu diner, waiting for a  
15 call from Robert Lino, Junior, who was with Anthony Basile and  
16 Frank Ambrosino.

17 You have the testimony of Frank Ambrosino. Do you  
18 remember what he told you? Do you remember what happened when  
19 he arrived at the bar?

20 Question: What happened while you were sitting  
21 outside Anthony Basile's bar?

22 Answer: I'm looking around and I looked to the  
23 front of Anthony's club and I see Baldo standing outside, and  
24 I ducked down so that Baldo can't see me.

25 When you saw Baldo Amato, where was he?

1           Answer: He was standing outside Anthony Basile's  
2 club.

3           Question: How sure are you that it was Baldo Amato  
4 you saw?

5           Answer: 100 percent sure.

6           Now, let me pause for a moment, because you will  
7 remember that Frank Lino's testimony and Frank Ambrosino's  
8 testimony were slightly different on a couple of points. They  
9 remembered things differently. You will remember that  
10 Ambrosino said that he never went inside Anthony Basile's bar  
11 that night, but Frank Lino told you that when he went inside  
12 the bar, there were a bunch of people there.

13           Well, I expect the defense will make a big deal  
14 about that. There were a few other inconsistencies as well.  
15 Lino knows he drove to Staten Island with D'Amico, but he  
16 doesn't think he was involved in the Capacio disposal. There  
17 are some inconsistencies on that.

18           But I expect the defense will say, you know, these  
19 are inconsistencies that show that these cooperating witnesses  
20 weren't there, they are making all this up.

21           I want you to not be fooled by those arguments,  
22 ladies and gentlemen. What it really shows is that Frank Lino  
23 and Frank Ambrosino, with respect to this murder, simply  
24 remember what happened from fourteen years ago slightly  
25 different. Do they differ on who was involved? Not a bit.

1 Do they differ on where the murder occurred? Not a bit. Do  
2 they differ on how it went down? Not a bit.

3 On the main points, ladies and gentlemen, they are  
4 entirely consistent. We know from our common sense, we know  
5 from our everyday lives, that people remember things  
6 differently.

7 If two people went to a wedding fourteen years ago  
8 and then they are asked to talk about that wedding today, they  
9 might remember differently what food was served, they might  
10 remember differently what the band played. But they won't  
11 remember differently where the wedding was and who got  
12 married.

13 So don't be fooled by the argument that just because  
14 they don't remember things exactly the same way as somebody  
15 else, that they are making it all up. They are entirely  
16 consistent on the main points.

17 So what happened? Frank Lino explained that Robert  
18 Lino, Junior got a call, quote, it was done, and that Robert  
19 Perrino had in fact been killed.

20 Robert Lino, Junior in turn calls Frank Lino and  
21 Robert Trimaldi at the diner to tell him to start the  
22 cleanup -- time to start the cleanup.

23 Lino expected that -- explained that when he went in  
24 he and Trimaldi go inside the bar and he was surprised by two  
25 things. He was surprised by the fact that Anthony Basile and

1 Robert Lino, Junior were already there, because he thought  
2 they were going to be a little farther away, and he was also  
3 startled by two other discoveries.

4 He told you that there was a gun on the ground and  
5 he told you that Robert Perrino was still alive.

6 Let's talk for a moment about the guns. Frank Lino  
7 says I only saw one gun. Frank Ambrosino tells you that  
8 Robert Lino, Junior gave him two guns.

9 We know from the ballistics evidence that two  
10 different guns were used to kill Robert Perrino. Again, I  
11 expect Mr. White to make a big deal of this. I expect the  
12 defense lawyers to say, Frank Lino doesn't know what he is  
13 talking about.

14 I submit to you, it is much ado about nothing.

15 First, Frank Lino didn't say that there was only one  
16 gun. He simply said, he didn't see a second gun. Remember,  
17 Frank Lino got there after the other individuals got in.

18 So it is entirely consistent with Robert Lino,  
19 Junior, having secured one of the guns already, and also Frank  
20 Lino told you it was dark.

21 So don't be fooled by the argument that the one gun  
22 versus two guns, everybody is making this all up; again,  
23 people remember details like that differently.

24 On the main points, where it was, how it went down,  
25 who was there, they are entirely consistent.



1           We all remember what happened next. The icepick.  
2 Robert Trimaldi takes an icepick and he plunges it into the  
3 ear of Robert Perrino.

4           Treacherous, but that's not why we asked these  
5 witnesses about it. Why is it significant? It is significant  
6 because of the testimony of the medical examiner, Doctor  
7 Hays, and the forensic pathologist -- anthropologist, Amy  
8 Mundorff. Do you remember what they told you? They told you  
9 that eleven years after the fact, they were able to determine  
10 without question that not only was Robert Perrino shot in the  
11 head, as the witnesses told you, but that a sharp object, like  
12 an icepick, had been plunged into the side of Robert Perrino's  
13 head.

14           The testimony of Amy Mundorff on that point, you  
15 will remember the skeleton, the testimony of Amy Mundorff on  
16 that point is compelling forensic evidence, evidence that none  
17 of these cooperating witnesses even knows about. That proves  
18 to you that Frank Lino and the others who were involved in  
19 this murder are telling the truth.

20           So what happens next? Lino explains to you that he  
21 goes outside to watch as a lookout while the others wrapped up  
22 the body and brought it downstairs.

23           You remember what Frank Lino know said about how the  
24 body was brought out? He said it was brought out in a rug.  
25 It was brought out in a rug.

1           Do you remember the testimony of Sue Ostrabinski?  
2 She was the FBI evidence response person who talked about how  
3 they unearthed Robert Perrino's body from underneath the  
4 concrete? What was found around the body? She said carpet.

5           You know Frank Lino know is telling the truth. You  
6 know Frank Ambrosino is telling the truth.

7           So what happened next? Frank Lino and Frank  
8 Ambrosino told you how Robert Perrino's body was driven to  
9 Staten Island and with the help of Jimmy LaBate buried deep in  
10 the ground.

11           And you will remember what happened a few days after  
12 the murder. Sal Vitale and Frank Lino both told you that they  
13 met to discuss how things went and a few notable things were  
14 discussed.

15           First, you will remember that Frank Lino told Sal  
16 Vitale that the next time you have a shooter kill someone,  
17 make sure the guy is dead and make sure there are no guns  
18 lying around.

19           The other thing they talked about was Anthony  
20 Basile. Sal Vitale knew him as the kid Anthony. Frank Lino  
21 knew him as a guy who was on record with him, who was in his  
22 own crew. They talked about prospects for membership,  
23 prospects for formal membership in the crime family.

24           But Anthony Basile never had a chance to get made  
25 because he was arrested. You will remember that -- on drug

1 charges. You will remember that Robert Lino, Junior was  
2 nervous about Anthony Basile's arrest. He was nervous that  
3 Anthony Basile was weak and might cooperate.

4 So what did Robert Lino, Junior do? He gets  
5 together with Jimmy LaBate and they move the body. Well,  
6 notwithstanding that effort, Perrino's body was ultimately  
7 found, buried under a slab of concrete. We know it was Robert  
8 Perrino's body because Doctor Redhead, Chester Redhead came in  
9 and he showed you the slides of the dental records. So we  
10 know it was Robert Perrino.

11 Now, is there any evidence, is there any independent  
12 evidence confirming the account of the cooperating witnesses  
13 that Robert Perrino's body was moved? That it was buried once  
14 and then moved? Amy Mundorff, the forensic anthropologist.  
15 Do you remember what she told you? She told you that there  
16 were postmortem fractures found on Perrino's bones, fractures  
17 that occurred well after, well after Robert Perrino had been  
18 dead.

19 What's the significance of that?

20 Question: Were there any parts of the body where  
21 you found there had been fractures that occurred long after  
22 the body had been dead?

23 Answer. Yes, on the femurs, on the thigh bones.

24 Question: These postmortem fractures long after the  
25 body is dead, are those fractures consistent with damage

1 caused to the skeleton by a mechanical device, like a backhoe  
2 being used to dig up a body and then reburied?

3 Answer: Yes.

4 It all fits together, ladies and gentlemen. It all  
5 fits together. The cooperating witnesses, the forensic  
6 evidence, the dental records, it all fits together and it's  
7 all consistent.

8 How did the defense respond to this mountain of  
9 evidence? Well, during cross-examination by Ms. Laser and  
10 Mr. White, a few defenses emerged. I want to touch upon them  
11 briefly and explain to you why you can easily reject them.

12 First, you heard early in this trial Ms. Laser  
13 cross-examining Salvatore Vitale, and I will call this defense  
14 the lots of Anthonys defense. Do you remember those  
15 questions? It was a long time ago. She read off a list of  
16 about a dozen or so members and associates of the Bonanno  
17 Organized Crime Family whose first name is Anthony, suggesting  
18 that somehow Sal Vitale was mixing up the kid Anthony, Anthony  
19 Basile, whose last name he doesn't even know, with some other  
20 Anthony.

21 Sounded pretty clever, pretty good at the time. But  
22 do you remember what Sal Vitale said on redirect examination?

23 Question: Do you recall Ms. Laser asking you  
24 questions about various Anthonys in the Bonanno organized  
25 crime family?

1 Answer: Yes.

2 Question: How many Anthonys did Frank Lino tell you  
3 participated in the Perrino murder?

4 Answer: Just one.

5 Question: Whose crew did Frank Lino say the Anthony  
6 who participated in the Perrino murder was in?

7 Answer: His crew, Frank Lino's crew.

8 We all know by now, after listening to Frank Lino's  
9 testimony, Frank Ambrosino, Joey D'Amico's testimony, that the  
10 Anthony involved in the Perrino murder was Anthony Basile,  
11 that Anthony, not some other Anthony, that Anthony.

12 Frank Lino also told that you there was another  
13 Anthony in his crew, Anthony Canale. You saw a picture of him  
14 a moment ago. Don't be fooled by the Anthony Canale defense.  
15 Frank Lino told you he wouldn't have Anthony Canale to  
16 participate in a murder. He did once and he didn't show up.  
17 He doesn't own a bar called Allie's.

18 I submit to you, ladies and gentlemen, that the fact  
19 that Ms. Laser has to resort to the lots of Anthonys defense  
20 shows you something about how strong the evidence is against  
21 Anthony Basile.

22 What was the other defense that you heard on  
23 cross-examination? I will call it the Lino After Hours Bar  
24 Defense, that the murder actually occurred at Frank Lino's  
25 after hours club, which is down the street on 86th.

1           Let's be very clear about that defense. There is  
2 absolutely no evidence in the record, no physical evidence, no  
3 witness testimony supporting that theory. Nothing.

4           It is contradicted, in fact, by numerous witnesses  
5 who told you exactly where the murder happened. In fact, all  
6 of the evidence supports the witness' testimony that it was at  
7 Basile's bar, not Lino's after hours club.

8           What did Frank Lino tell you?

9           Question: Would you describe what the outside of  
10 Anthony Basile's bar looked like?

11           Answer: Well, outside I think you went up steps  
12 to -- was a one-story building, and that's where Basile had  
13 the bar and to the right of it I think there was a nail salon  
14 or beauty salon.

15           Question: You say a one-story building? You had to  
16 go up flights of stairs?

17           Answer: Go up one flight and that's the -- then  
18 there is the roof. You don't go any further.

19           What did Joey D'Amico tell you?

20           Question: Could you describe for us what Anthony Basile's bar  
21 looked like?

22           Answer: I believe you went, it was one long  
23 staircase, started out at ground level. It was next to a  
24 storefront. It was under the el on 86th Street and it was a  
25 long, long staircase and then one of the apartments or one of

1 the doors was the club.

2 Question: You said it was a long staircase?

3 Answer: Staircase was long. Instead of little  
4 flights, it was a long, long staircase.

5 (Continued on next page.)

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1 MR. GOLDBERG: (Continuing) This is  
2 cross-examination. This is cross-examination. Did anyone  
3 else tell you that Basile's bar was on the top of a nail salon  
4 or a beauty salon? Lots of witnesses did including Anthony  
5 Basile's own witnesses.

6 And, did anyone else tell you about the flights of  
7 stairs. This cross-examination of Joey D'Amico; I submit was  
8 designed to get you to believe there was maybe a different  
9 stairwell, there were shifts in the stairs. Do you remember  
10 that? Well, what about the testimony of one of Anthony  
11 Basile's own witnesses, Mr. Fredella.

12 Let's look at his testimony.

13 "QUESTION: It was one direct stair cause up to  
14 Basile's bar?"

15 "ANSWER: There were no turns, it was straight up."

16 You know Frank Lino is telling you the truth, he  
17 know Joey D'Amico is telling you the truth about where this  
18 murder occurred. I submit to you that the Frank Lino  
19 afterhours club defense is no defense at all and there's  
20 nothing in the record supporting it and it should be rejected  
21 out of hand.

22 Ladies and gentlemen, we have proven beyond a  
23 reasonable doubt that both Baldo Amato and Anthony Basile  
24 conspired to murder Robert Perrino and did, in fact,  
25 participate in the murder of Robert Perrino, Racketeering Act



1 Seven, and that it's further powerful evidence that both of  
2 those defendants agreed to participate in the conduct of the  
3 affairs of the Bonanno Organized Crime Family.

4 So, let's move on Racketeering Act No. 9 charges  
5 Steven LoCurto with Ecstasy distribution conspiracy in 1999.  
6 This is another racketeering act where the defendant has  
7 admitted committing the crime.

8 Steven LoCurto pled guilty to this act so you know  
9 he's a drug dealer of Ecstasy. What else do you know about  
10 LoCurto's drug dealing? You know he's doing it as a Bonanno  
11 soldier, you know he's doing it with other Bonannos. You  
12 learned during this trial that he does Ecstasy transactions  
13 with Gary Lane. You heard about Gary Lane and Michael  
14 McDonough, John Carillo explained that Gary Lane and Michael  
15 McDonough are both Bonanno associates and Gary Lane and Steven  
16 LoCurto are close to one another in the Ecstasy drug trade.

17 How do you know that you know it? There are a  
18 number of ways. The drug tapes. Remember the drug tapes? Do  
19 you remember what Gary Lane says about the \$20 that was  
20 shorted him, \$20. Remember that discussion? He says "If I  
21 would have known it was you Stevie, if I would have known it  
22 was you." What he's really saying there is if I had known you  
23 were the person involved, you're a Bonanno soldier, I as a  
24 Bonanno associate would not have made a big deal about the  
25 shorting of the \$20 because, ladies and gentlemen, that's what

1 Bonanno associates do for Bonanno soldiers.

2           You also know the relationship between Gary Lane and  
3 Steven LoCurto is close because you see them at the same  
4 wedding. I'm not going to put it up again you, that wedding  
5 photo, they're in the same wedding party. Who else is in that  
6 photo? Again, Bonanno soldiers, Bonanno associates, the crew  
7 of Anthony Graziano, T.G.

8           You also know Gary Lane another way. How else do  
9 you know Gary Lane? May 9th, 1991, surveillance on Grand  
10 Avenue in Queens and who's there? Joe Camarano, Louie  
11 Restivo, Robert Lino, Dwayne Lisenheimer, Vincent Basciano.  
12 James Tartaglione, Patrick DeFilippo, Gary Lane, Ronald  
13 Philicomo. Both at Sal Vitale's social club on Grand Avenue  
14 in Queens.

15           You remember Ronald Philicomo because Frank Lino  
16 told you about him. He told you that he was involved in  
17 crimes with Ronald Philicomo and that Ronald Philicomo was  
18 involved in the murder of Sonny Black, the person who was in  
19 the photo a long time ago with Robert Copasio.

20           Ladies and gentlemen, these people, the people  
21 dealing drugs, dealing Ecstasy. Steven LoCurto dealing drugs  
22 with other Bonanno soldiers and associates are not sitting  
23 around playing Continental. You also know that it was wasn't  
24 a one shot deal.

25           Steven LoCurto wants you to believe with his

1 testimony that the Ecstasy was a one shot deal. You know that  
2 their drug dealing was widespread. How do you know that?  
3 Because of high dollars. You saw the drug records. You  
4 remember this Government Exhibit 177-C, large numbers. And,  
5 you will remember Steven LoCurto's testimony on this, we've  
6 talked about it before, but I submit to you that from the  
7 beginning it was so false and why was it false? It was false  
8 because he knows he's guilty. He knows he was doing a lot of  
9 Ecstasy transactions as a Bonanno soldier and with Bonanno  
10 soldiers and associates.

11 My colleague showed you this on the overhead 41,700  
12 and he asked him whether he thought that was a big number.  
13 Steven LoCurto wouldn't even admit to being able to see that  
14 number. "I don't know, there's no comma there." "It looks  
15 like 41 and then followed by 700." I think that tells you a  
16 lot about whether or not Steven LoCurto is guilty of this  
17 racketeering act which he's already pled guilty to.

18 There's also that question and answer about the word  
19 crew. You remember that, we put it on the Elmo. He wouldn't  
20 even admit that this word C-r-e-w says crew. "I don't know."  
21 "I don't see where you're talking about." I don't see a C, I  
22 don't see an R, I don't see an E, I don't see a W. You know  
23 that Steven LoCurto is guilty of this racketeering act. You  
24 know it from he everything you've seen; you know it from his  
25 testimony.

1 Ladies and gentlemen, we submit to you that we've  
2 proven beyond a reasonable doubt Racketeering Act No. 9,  
3 Ecstasy distribution conspiracy. Further evidence. Further  
4 evidence that Steven LoCurto agreed to participate in the  
5 conduct of the affairs of the Bonanno Organized Crime Family.

6 Let's talk about Racketeering Act Ten. Loan  
7 sharking conspiracy against Anthony Basile. And this focuses  
8 on activity in 2002 and 2003. Loan sharking is another way of  
9 saying extortionate extensions of credit.

10 You'll see this in the verdict sheet and in the jury  
11 charge an extortionate extension of credit and an extortionate  
12 collection of credit. It's a very fancy legal way of saying  
13 loan sharking, shylocking. I submit to you, ladies and  
14 gentlemen, that the evidence here is also straightforward.

15 Now, who told you that Anthony Basile was loan  
16 sharking in 2002, 2003? Well, a number of witnesses told you  
17 that. First we had the testimony of Frank Ambrosino who spoke  
18 with Anthony Basile when he got out of jail. You remember  
19 this. Do you remember what Frank Ambrosino said, he had a  
20 conversation with Anthony Basile. Let's look at it.

21 "QUESTION: What did you discuss with Anthony  
22 Basile?"

23 "ANSWER: We were talking about you know -- he was  
24 happy he was out on the street and saying: This is where I  
25 like to be, not in; with friends, and stuff, and I asked him

1 -- you now, I said: What have you been doing? He says, well,  
2 I got a few dollars on the street, and I'm bobbin' and  
3 weaving."

4 "QUESTION: When Anthony Basile said he had a few  
5 dollars on the street what did you understand that to me?"

6 "ANSWER: That he had money loaned out, shylocking."

7 "QUESTION: In what year did Anthony Basile tell you  
8 that he was shylocking?"

9 "ANSWER: This was summer of 2002."

10 Frank Ambrosino wasn't the only one who told you  
11 about Anthony Basile loansharking. Let's look at the  
12 testimony of another witness, Joseph D'Amico."

13 "QUESTION: What was discussed?"

14 And you'll remember this was at Club 101.

15 "ANSWER: How are you doing, how is everything, you  
16 know just regular talk. I started shooting, you know, just  
17 talking to Anthony. Anthony had told me he was sort of having  
18 a problem with Richie Riccardi."

19 Remember Richie Riccardi? Richie Riccardi was the  
20 doorman at the murder of Robert Copasio. At the time an  
21 associate, now a soldier.

22 "Anthony told me was he was sorting having a problem  
23 with Richard Riccardi. John Lombardo."

24 Who is John Lombardo. John Lombardo is one of Frank  
25 Lino's associates.

1 "He had loaned John Lombardo some money and they  
2 were trying to weasel out the money, not paying him, giving  
3 him excuses, something to that effect."

4 "QUESTION: What year did that discussion with  
5 Anthony Basile had been?"

6 "ANSWER: 2002, 2003."

7 "QUESTION: When Anthony Basile told you that he had  
8 loaned money to John Lombardo what did you understand that to  
9 mean?"

10 "ANSWER: Basile had loaned Lombardo money and was  
11 shylocking, loan sharking him."

12 Frank Lino also told you about these loans and his  
13 testimony is confirmed by the prison records, the Nassau  
14 County prison records that we introduced into evidence showing  
15 that people are coming to see him: Anthony Canali, Frank  
16 Copa, Frank Lino, Filippo Rabito, Joe Amiduri, and who else,  
17 John Lombardo.

18 You remember what Joseph D'Amico also told you about  
19 Anthony Basile and his situation after he got out of prison.  
20 Remember what he told you about Junior Chilli? There was a  
21 lot of testimony at the end of case about Junion Chilli.

22 "QUESTION: What was said?"

23 "ANSWER: I was happy to see him come home and we  
24 exchanged greetings and "how is everything, how do you feel,  
25 how is everything," blah, blah, blah and I asked him, "who did

1 they put you with, Anthony."

2 "QUESTION: When you were at the Chinese restaurant,  
3 and you asked Anthony Basile who he had been put with, what  
4 did Basile say?"

5 "ANSWER: He says they put him with Junior Chillli."

6 "QUESTION: Anthony Basile told you he was but with  
7 Junior Chillli, did Basile say why?"

8 "ANSWER: Anthony told me he got along with Junior  
9 in the can, they were in prison together, and he like Junior,  
10 he was happy with him."

11 Frank Lino also told you about that. He told that  
12 you Basile and Junior Chillli met in prison. Frank Ambrosino  
13 also told you about that.

14 Let's look at his testimony, let's look at Frank  
15 Ambrosino's testimony."

16 "QUESTION: Do you know where Anthony Basile served  
17 his prison sentence?"

18 "ANSWER: One of the places was Allenwood."

19 "QUESTION: Did you learn from other members or  
20 associates of the Bonanno Organized Crime Family that other  
21 Bonanno people were at Allenwood with Anthony Basile?"

22 "ANSWER: Yes."

23 "QUESTION: Who told you that?"

24 "ANSWER: Robert Lino had told me."

25 "QUESTION: What did Robert Lino tell you?"

1 "ANSWER: That Bruno Indellicato was there. Junior  
2 Chilli was there."

3 Are these witnesses tell telling you the truth? Are  
4 these witnesses telling you the truth? Remember the testimony  
5 in the last day of the Government's case, the people from the  
6 Metropolitan Detention Center who put into evidence the  
7 so-called "Sentry Reports," those are those logs that show  
8 where people are in prison like dates and where exactly they  
9 were. Remember there was a gentleman here from Allenwood.  
10 The records are in evidence, the records in evidence show that  
11 Anthony Basile and Junior Chilli were in Allenwood together.  
12 They were in Allenwood together from June 1996 to March 1999.  
13 But not only that.

14 Not only did we put into evidence the fact that they  
15 were in the same prison together, we put into evidence that  
16 they were in the same unit within that prison together. Unit  
17 3-B, remember the schematic? And not only the same unit, but  
18 they were in cells that were a mere 60 feet apart and these  
19 aren't cells like you see on TV. These are cells with open  
20 doors. The inmates are allowed to walk around, they're  
21 allowed to go into open other's cells. You know these  
22 witnesses are telling you the truth when they tell you that  
23 Anthony Basile met Junior Chilli in prison and that's why they  
24 became friendly and that's why when Anthony Basile got out of  
25 prison he got put with Junior Chilli. Powerful, corroborating



1 evidence that tells you that the cooperating witnesses are  
2 telling you the truth.

3 How did the defense respond to the evidence about  
4 Anthony Basile loan sharking in 2000, 2003. Any defenses that  
5 arose during the cross-examinations? No, there were none.

6 Ladies and gentlemen, we submit to you that we've  
7 proven beyond a reasonable doubt that Anthony Basile did, in  
8 fact, commit Racketeering Act Ten, loan sharking conspiracy.  
9 Further evidence that the defendant Anthony Basile agreed to  
10 participate in the conduct of the affairs of the Bonanno  
11 Organized Crime Family.

12 MR. GOLDBERG: Your Honor, I think I have about  
13 20 minutes if you don't mind I'm going to keep going.

14 THE COURT: Keep going.

15 MR. GOLDBERG: All right. We're moving along in a  
16 pretty good clip. These are the crimes we've gone over.  
17 These most recent crimes are crimes that we did sort of late  
18 in the trial. So, you'll forgive me if I race through things,  
19 I would like to finish before lunch.

20 All right. The final two racketeering acts are the  
21 final two racketeering acts against Baldo Amato: Joker Poker  
22 and Baccarat. And when I told you yesterday morning both of  
23 these racketeering acts are also charged in counts two, three,  
24 and four of the indictment. So, when you talk about these  
25 again we're hitting two birds with one stone.

1           What do we have for Racketeering Acts Two and Three?

2   First, we have to prove there was, in fact, an illegal  
3   gambling business with regard to two, Joker Poker and with  
4   regard to three, baccarat. We have to prove that the this  
5   operated for more than 30 days. You've heard a lot of  
6   testimony about how long these operations lasted or that it  
7   made more than \$2,000 in any one day. You've heard about the  
8   amounts of money that these gambling businesses have made and  
9   we have to prove that five or more people including the  
10   defendant, Baldo Amato, were involved in the operation.

11           Let's talk about Racketeering Act No. 2. First of  
12   all, you heard from William Vanderland, he's the FBI agent  
13   that came from Texas and used to work in New York. He  
14   explained to you that Joker Poker machines not only Joker  
15   Poker video machines but video machines such as Cherry Master  
16   and Eight Liner and he explained to you that these machines  
17   are big business, big money.

18           He told you about one machine, one Bonanno machine,  
19   he had once seized and it had a counter showing the equivalent  
20   of \$25,000 and that was just one machine. He also told you  
21   how these Joker Poker machines can be rigged for illegal  
22   activity. He told you about the counter. He told you about  
23   the knock-off switch. Remember the knock-off switch? When  
24   someone gets paid out they hit that switch and it returns to  
25   zero.

1           So, who told you about Baldo Amato's involvement in  
2 illegal Joker Poker machines? Sal Vitale, former underboss  
3 told us that Baldo Amato and Joe Massino were partners in that  
4 Joker Poker business. They had them in cafe Giannini and  
5 Cesar Bonventre's old cafe and a number of other spots.

6           Vitale told that you Amato and Massino were together  
7 at the MCC, the Metropolitan Correctional Center, that's in  
8 Manhattan. You at the same time put those records, those  
9 prison records into evidence.

10           More corroborating evidence from Sal Vitale. Sal  
11 Vitale also told you about the kind of money that Baldo Amato  
12 and the Bonanno Organized Crime Family was pulling in from  
13 these Joker Poker machines. Let's look at his testimony.

14           "QUESTION: Did you learn how much money Baldo Amato  
15 was making from those machines?"

16           "ANSWER: It was being brought to me once a week,  
17 while Mr. Massino was away."

18           "QUESTION: You received money from the Joker Poker  
19 machines?"

20           "ANSWER: Yes."

21           "QUESTION: How much money was being made a being on  
22 these machines."

23           "ANSWER: It varied, I would say anywhere from seven  
24 to 8,000 to 10,000 to 11,000."

25           This is big business, ladies and gentlemen of the

1 jury, it's a silly name Joker Poker, but it's a serious  
2 illegal gambling source for the Bonanno Organized Crime  
3 Family.

4 Sal Vitale also told you how successful Baldo Amato,  
5 how successful Baldo Amato was in his Joker Poker business.

6 "QUESTION: Did Joe Massino say whether Baldo Amato  
7 got profits from the Joker Poker machines?"

8 "ANSWER: He said Baldo was making a fortune with  
9 the machines."

10 Frank Lino took you back even farther. Lino told  
11 you about his own machines and told you about face-to-face  
12 conversations about conversations he had with Baldo Amato and  
13 Baldo Amato's Joker Poker machines in the late '80s and early  
14 '90s.

15 Let's a look.

16 "QUESTION: Did there come a time when you spoke to  
17 Baldo Amato about the operation of Joker Poker machines?"

18 "ANSWER: We were -- we just talked in general  
19 saying how I was doing my machines and things like this."

20 "QUESTION: And what would Baldo Amato say?"

21 "ANSWER: Just how are you doing with your machines?  
22 And I would say I'm all right because he had some machines out  
23 himself."

24 Joey D'Amico also told you about Baldo Amato's Joker  
25 Poker machines. I'm not going to read this whole slide, but

1 let me just tell you last part. "Baldo Amato was a made  
2 member of the Bonanno Crime Family with whom those machines  
3 were tee with."

4 Talking about the machine at Cafe Giannini. You  
5 know that by now, ladies and gentlemen.

6 And, Anthony Tabbita, looking at the slide quickly,  
7 he told you he went into Cafe Giannini all the time and there  
8 were Joker Poker machines, they were illegal.

9 The evidence, ladies and gentlemen, is overwhelming  
10 and we haven't even talked about Frank Fiordolino. Remember  
11 frank Fiordolino? He was the guy who was working at all of  
12 these cafes in this area. He was the guy closest to these  
13 businesses. He gave you a lot of detailed testimony. I'm not  
14 going to go through all of it, but he gave you a lot of  
15 detailed testimony about how much money is being made at the  
16 various spots.

17 Nino's Mistrretta told you that Baldo Amato was  
18 making between 15,000 to \$25,000 a week, a week. Cafe  
19 Giannini's, \$12,000, \$15,000 a week. And Frank Fiordolino  
20 also told you something that's important for the statute and  
21 that is there were, in fact, more than five people involved in  
22 these gambling businesses.

23 He told you about Tony Green who used to pick up  
24 money; talked about doing the route. Sal Montana picked up  
25 money and all the people who were involved in controlling

1 these locations who got a piece of the action.

2 So, was there any independent evidence supporting  
3 the witnesses' testimony? Plenty. We put into evidence no  
4 less, it may have seemed boring at the time, but no less than  
5 six raids, six searches of these Joker Poker locations.

6 Quickly, I'm going to show you some pictures. You  
7 remember January, 1991 this is Cafe Giannini. What's in the  
8 bottom left corner, a Joker Poker machine.

9 By the way, you know the tables here, you notice  
10 what the tables look like? Do they bear any resemblance to  
11 the tables that were in the original Cafe Giannini that was  
12 part of Giannini Restaurant. Of course they do, they're the  
13 exact same tables. It all ties in together, ladies and  
14 gentlemen, it all ties in together.

15 I'm not going to go through all the raids, you saw  
16 lots of pictures, you saw lots of evidence supporting what the  
17 cooperating witnesses told you. They told you there was  
18 illegal Joker Poker going on. They told you that Baldo Amato  
19 controlled it and made money from it and you saw the evidence.

20 You saw the evidence in photos and you were able to  
21 hold it in your hand. Let's move on to baccarat, all right?

22 Now, what do we have to prove? Same thing as Joker  
23 Poker, that there was an illegal gambling business, that it  
24 was making all kinds of money, that it was operating for a  
25 period of time, and that there were more than five people

1 including the defendant, Baldo Amato. And by the way, let me  
2 take a step back. I expect one of the things you'll hear from  
3 Mr. White is Baldo Amato was not involved in these businesses  
4 because he was never there when the places are raided, you  
5 don't have any photos of him taking money from the Joker Poker  
6 machine.

7 I submit to you, ladies and gentlemen, that after  
8 two months and 70 witnesses, people who told you how the  
9 Bonanno Organized Crime Family works, people who told you how  
10 Baldo Amato works that you another better. You know better  
11 than that defense. You know that a made guy is not the guy  
12 hitting the knock-off switch; you know that the made guy is  
13 not the guy serving the coffee. You know that the made guy is  
14 not the guys necessarily doing the route; and yet, the made  
15 guy's profiting and he's involved so don't be fooled by that  
16 defense.

17 Baccarat, you heard that the baccarat game is a  
18 joint venture of sorts between the Bonanno Crime Family and  
19 the Gambino Crime Family and it happens, it's seasonal. It  
20 happens at the end of the year and goes into the beginning of  
21 the year. It moves around from cafe to cafe and the location  
22 is selected by the bosses, the bosses of the Bonanno Crime  
23 Family and the Gambino Crime Family. And you recall that in  
24 1990 and 1991 those seasons actually extended to 1992 at Cafe  
25 Giannini and you heard that it's big business.

1           You heard that they start around midnight and they  
2 go into the wee hours and everybody comes to it because if you  
3 go to some place else, they'll break the place up. And you  
4 also learned that the people who are profiting aren't  
5 necessarily there.

6           Again, I expect Mr. White to say no witness said  
7 that they saw Baldo Amato at the table or at opening  
8 ceremonies, things like that.

9           You know better, ladies and gentlemen, you know  
10 better based on what all of the witnesses have told you and  
11 you know better about Baldo Amato and how he operates.

12           And you heard from Frank Fiordolino. Frank  
13 Fiordolino is the coffee boy, but he's sort of more than that.  
14 Same guy. He's sort of an encyclopedia of everything that  
15 went on in these coffee shops. I mean, he doesn't know  
16 everything but he was there. He explained to you how the  
17 baccarat game went from this place to that place; he explained  
18 that they were at Cafe Divio, Cafe Tropical, Cafe Village,  
19 Cafe Milan Sport.

20           Again, you saw the raids, you saw the evidence, the  
21 hard evidence backing up the witness's testimony you saw  
22 baccarat tables. You now Sandro Ioso who was one the point  
23 guys, the made guy, in the Bonanno Organized Crime Family.

24           This is big business, ladies and gentlemen, and then  
25 you saw the tools of the trade. Tools of the criminal trade



1 the tools of the illegal gambling trade. It's a shoe, but Sal  
2 Vitale told you about this shoe, the shoe gets passed around.  
3 This means money, this means illegal money. This lines the  
4 pocket of Baldo Amato and the Bonanno Organized Crime Family.  
5 You know the cooperating witnesses are telling you the truth  
6 about these games and who controlled them.

7 I submit to you, ladies and gentlemen, that we have  
8 proven beyond a reasonable doubt not only that Baldo Amato  
9 committed Racketeering Act Two and Three but that he's guilty  
10 of Counts Two, Three, and Four in the indictment. And I  
11 submit to you it's further evidence that Baldo Amato agreed to  
12 participate in the conduct of the affairs of the Bonanno  
13 Organized Crime Family.

14 So where does that leave us, ladies and gentlemen?  
15 Where does that leave us?

16 I have spoken for a long time. We have gone through  
17 a lot of evidence, I didn't have time to go through all the  
18 evidence. We would be here for a very long time. You have  
19 been gracious in listening to a lot of details and paying  
20 attention and I thank you for that.

21 But before I conclude my remarks I want to bring you  
22 back. I want to bring you back to when Lorraine Platia took  
23 that stand and I want to bring you back to when Nina DiFalco  
24 took that stand and I want to bring you back to when Nikki  
25 Perrino Larranga took that stand.

1           They bravely walked into this courtroom and they  
2 told you about how they said good-bye to their uncle.

3           MS. LASER: Objection, Your Honor.

4           THE COURT: Overruled.

5           MR. GOLDBERG: They told you how they said good-bye  
6 to their uncle, their husband, their father and they told you  
7 how they never saw those individuals alive again. This is not  
8 for sympathy, I don't bring this up for sympathy. I bring it  
9 up because they're the brutal facts, the brutal facts that  
10 help establish the defendant's guilt and they're the brutal  
11 facts of this case. The evidence on the three murders, ladies  
12 and gentlemen, I submit to you, is overwhelming. The  
13 defendants are guilty of their respective charges.

14           All of the evidence in this case when taken  
15 together, two months of it, proves beyond a reasonable doubt  
16 not only the gambling charges that we just discussed, but four  
17 other indisputable facts, yes, facts.

18           Number one, that the Bonanno Organized Crime Family  
19 does, in fact, exist.

20           Number two, that the Bonanno Organized Crime Family  
21 has an effect on interstate or foreign commerce.

22           Number three, that each of the defendants behind me  
23 were associated with the Bonanno Organized Crime Family. And  
24 the fact, ladies and gentlemen, that each defendant agreed to  
25 participate in the conduct of the affairs of the Bonanno

1 Organized Crime Family.

2 The defendants have been involved in this conspiracy  
3 known as the Bonanno Organized Crime Family and every step of  
4 the way, every step of the way they had choices. They had  
5 choices to not illegally gamble. They had choices to not deal  
6 drugs. They had choices to not loan shark. They had choices  
7 to not rob. They had choices to not kill.

8 Now, it's up to you. We respectfully request that  
9 you hold each defendant accountable for the choice he made.  
10 The choice to commit horrible crimes and that you render the  
11 only verdict that is consistent with the evidence. Baldo  
12 Amato is guilty. Steven LoCurto is guilty. Anthony Basile is  
13 guilty. Hold them accountable, convict with confidence.  
14 Thank you for listening.

15 THE COURT: All right. We'll take a one hour lunch  
16 break.

17 All rise for the jury.

18 (Jury exits courtroom at 1:06 p.m.)

19 THE COURT: Mr. White, let me ask you since you're  
20 up next.

21 Couple of things. Are you using the Elmo or any  
22 equipment up here?

23 MR. WHITE: I don't believe so, Your Honor.

24 THE COURT: If you change your mind, let me know so  
25 we can set it all up.

1           The second question I have is with respect to  
2 Mr. Goldberg. He didn't use a microphone during his closing  
3 but you tend to be soft spoken, not that he is loud spoken,  
4 but you tend to be soft spoken. I am wondering whether you  
5 want us to set up the microphone for you.

6           MR. WHITE: I do.

7           THE COURT: We will set that up during the break.

8           All right then, the other counsel, defense counsel  
9 you'll let me know if you want the microphone or if you don't.  
10 It is helpful for people to hear in the audience generally.  
11 Okay. Thank you.

12          MR. WHITE: Thank you.

13          (Luncheon recess taken at 1:07 p.m.)  
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1           A F T E R N O O N           S E S S I O N

2           (The following occurred in the absence of the jury.)

3           THE COURT: Let's seat the jury, please.

4           (Jury present.)

5           THE COURT: Please be seated.

6           Mr. White, you may deliver your closing argument.

7           MR. WHITE: Thank you, Judge.

8           Good afternoon, ladies and gentlemen of the jury.

9           First I am going to ask you to indulge me a little  
10 bit and forgive me for not being able to match the  
11 government's high tech presentation. It was quite an  
12 impressive show, with computerized power point testimony  
13 projected for you, portions of it on your screen. It's like  
14 you are in your living room and you could watch it. I can't  
15 do that, the audio capability plugged in, colorized blowups  
16 which I don't have, and custom made charts  
17 indicating -- pretty much indicating what your verdict should  
18 be.

19           You know, the government's summation, indeed, its  
20 whole trial presentation gives you some idea of what an  
21 individual faces when he comes up against the awesome power of  
22 the United States Government. The power of the individual is  
23 small and the government, it's almost unlimited.

24           In representing Baldo Amato, I am assisted by a  
25 law student who I introduced to you at the beginning, Chris

1 Martin, and I just don't have the resources to match the  
2 government firepower, so my summation, for example, I will be  
3 reading to you from the transcript itself, portions of the  
4 transcript, and I will just ask you to follow long with me as  
5 I do it.

6 When you are deliberating, it is going to be the  
7 transcript itself that will be available to you, if you have  
8 questions or if you want to refer to it, and the same with  
9 exhibits. I may show you some exhibits, but when you retire  
10 to deliberate, all the exhibits will be in the jury room and  
11 you can look at them.

12 Now, some of you who are my contemporaries, if there  
13 are any of you who are my contemporaries, may remember the  
14 theory of -- you remember this media guru, Marshall MacLuhan,  
15 the media is the message. By that he meant the people are  
16 more swayed by the way the message is delivered than by the  
17 actual contents of the message, and actually we see that in  
18 advertising all the time. It's one of the ways advertising  
19 works.

20 I just hope that is not going to be the case here,  
21 because it can't be the case here. It's not the way the  
22 evidence was presented to you, the technical effects with  
23 which it was presented, but the evidence itself.

24 I noticed during the trial, when these head shots of  
25 various individuals were put up on the board and then another

1 one was slid next to it and another one slid next to that,  
2 there is this kind of power of suggestion, subliminal, you see  
3 them all together. That's what I mean by the medium being the  
4 message rather than the message itself.

5 So I hope and I trust that you are going to focus on  
6 the evidence itself and not ways they might have sort to  
7 persuade you by suggestion or innuendo rather than by what is  
8 the evidence itself.

9 When I made my opening statement to you a few weeks  
10 ago, you know, I didn't paint a rosy picture of Baldo Amato.  
11 I didn't make any wild promises of what the evidence would be.  
12 I told you only that I would principally defend against the  
13 two murder charges, and because in the end your verdict is  
14 going to be based on the age old question, did he do it, or  
15 more accurately, I pointed out at the time, has the  
16 prosecution proven beyond a reasonable doubt that he did it.

17 I said to you that after you people, good and true,  
18 drawn from the community, assess the witnesses and their  
19 credibility, that you would find that the government really  
20 hasn't proven beyond a reasonable doubt that Mr. Amato  
21 committed those crimes.

22 I said just use your common sense, your own life  
23 experience. That's why jurors are drawn from the community,  
24 and ask yourself, with respect to each witness, can I trust  
25 this witness. Can I convict somebody on the basis of this

1 witness' word, or to put it more in terms of reasonable doubt,  
2 would I hesitate to act in a matter of importance in my own  
3 life if it was based on that witness' word.

4 Now having heard and seen these witnesses, I submit  
5 that you would hesitate to act on the word of an Anthony  
6 Tabitta or a Joel -- Sal Vitale or Frank Fiordilino or Frank  
7 Ambrosino, and that you should hesitate to act on their word.

8 And not because they are vile individuals, which the  
9 prosecutor suggested to you it would be our argument, that  
10 these are vile people you shouldn't believe, it is not because  
11 they are vile. It is because they are not trustworthy.  
12 That's what you really, in the long run, are going to be  
13 basing your decision on, are they trustworthy.

14 The reason these particular witnesses are not  
15 trustworthy, and of course it varies by witness. I am not  
16 coloring all with the same broad cloth. We will talk about  
17 them individually as we go through, but essentially each has  
18 led a life of crime, a life of crime. Just didn't go out and  
19 commit a crime and now is cooperating against somebody else.  
20 They led a life of crime. They know the system exceedingly  
21 well and we will show how that is true as I go through this.  
22 They know how to use the system. They know how to manipulate  
23 it. Some of them have manipulated it before and they know how  
24 to benefit from it.

25 Now, just one other reference to my opening



1 statement. I told you then that I really wasn't sure of who  
2 the witnesses would be and I said I might mention some who are  
3 not called, and that proved to be the case with one, Fabio  
4 Bartolotta. I expected he would be called. He wasn't called.  
5 The were others I expected that weren't called.

6 There was a witness I didn't mention at all, Frank  
7 Ambrosino. I didn't mention him in my opening. Frankly, it  
8 came as a complete surprise to me at this trial that he  
9 implicated Baldo Amato in the murder of Robert Perrino.

10 Now, before I get into the individual crimes with  
11 which my client is charged, I want to touch upon a few general  
12 themes that apply generally to everything I am going to say  
13 and some of these are things that the prosecutor referred to  
14 in his summation.

15 One is, the subject of a cooperating witness and how  
16 you evaluate them. The prosecutor said that you  
17 should -- like three factors. One, the demeanor of the  
18 witness, the witness' obligations under their cooperation  
19 agreements, and what other evidence is there to corroborate.

20 That is not bad. That's a pretty good three factor  
21 test for evaluating these cooperators.

22 In terms of their obligations, you heard a lot  
23 during this trial about their cooperation agreements, and we  
24 went through their cooperation agreements with several of the  
25 witnesses, kind of chapter and verse, the prosecution did it

1 first and then I would do it, what does this clause mean, what  
2 does that clause mean.

3 But, you know, doesn't it all come down to common  
4 sense. I think you all have a pretty good idea that these  
5 witnesses simply hope to get a reduced sentence in return for  
6 helping the prosecution make cases. That's what it all comes  
7 down to. I don't think anybody can dispute that. All the  
8 rest is interesting. Well, who determines whether you are  
9 telling the truth. Isn't it the government who determines it?  
10 Who determines the ultimate sentence?

11 These are all factors and you can review the  
12 testimony. I'm sure you remember it.

13 But the fact of the matter is, these witnesses have  
14 to help the prosecution make cases in order to escape serious  
15 punishment, or more serious punishment.

16 One of the -- one of the themes that came up with  
17 several of the witnesses is that when they decided to  
18 cooperate, they were only charged with one crime, say one  
19 murder, and after they cooperated they were charged with  
20 additional murders that they admitted to, and I assume the  
21 government's argument is, they put themselves in worse  
22 jeopardy.

23 But it is actually not the case because they are  
24 charged with one murder. Now they admit to other murders.  
25 They now receive their reduced sentence, or hope to, and not

1 only do they receive the reduced sentence for the murder they  
2 were charged with, but they clear the deck. They get rid of  
3 all their outstanding crimes and they get the sentence for  
4 these other ones, so it is in their great interest to admit to  
5 as many crimes as they can because they know they are going to  
6 get their slate clean when they finish their sentence.

7           We have living proof of that in this case. Anthony  
8 Tabitta was charged with one murder. He pled to four. He  
9 admitted to three more. He told the government about them,  
10 including the brutal double homicide of two young men. He  
11 walked out of prison after less than six years with all four  
12 murders cleared.

13           So any idea that these witnesses jeopardized  
14 themselves by revealing more crimes is really a fallacy.

15           The demeanor of the witnesses, one of the things I  
16 would like you to try to recall, and I will point out few  
17 instances to you, is did the witnesses really take full  
18 responsibility for their crimes up on this witness stand? In  
19 some aspects they did but in some aspects they didn't. I  
20 think of at least four witnesses, and I will point them out as  
21 we go through, they tended to try to minimize what they had  
22 actually done, and I suggest to you, of course they've already  
23 pled guilty to it and why should they want to minimize it.  
24 They weren't sentenced yet. They need the government's 5K1  
25 letter but they also know a judge has discretion as to where

1 to sentence them. You will see they tend to minimize it.

2 I bring this under the category of the witness'  
3 demeanor on the stand. Is the witness being candid?

4 The third factor that the government pointed to,  
5 other evidence, corroboration.

6 Corroboration is simply -- to corroborate is to  
7 support with other evidence. It's quite simple.

8 The government pointed out that there were only six  
9 cooperators testifying but there were a total of 70 witnesses.  
10 There is lots of corroboration.

11 You may recall that a lot of those witnesses, I  
12 never cross-examined. Frankly, I didn't cross-examine them  
13 because it was kind of immaterial what they were testifying  
14 to. It wasn't in dispute. It really wasn't corroborating  
15 anything that you really have to decide.

16 So I have this category of corroboration that I call  
17 illusory, illusory corroboration. It sounds like  
18 corroboration but it is an illusion because it is  
19 corroborating a fact that really doesn't matter to the  
20 determination you have to make. It is a side fact. It  
21 doesn't really prove the point.

22 Okay. I have a little story to illustrate this.  
23 This is a story of the cowboy who comes riding into town and  
24 he has behind him a horse and on the horse he has another  
25 cowboy with his hands tied behind his back. Across the back

1 of the horse is a dead body. He comes in and he goes to the  
2 sheriff and the sheriff says what happened. He said you know,  
3 a mile outside of town just off of the road there is a tall  
4 crooked oak tree and I was going by there and I heard an  
5 argument and I snuck up on it and I saw this fellow shoot that  
6 guy dead.

7 And the fellow who has been brought in says, that's  
8 not true, sheriff. That's not true. I didn't shoot him. He  
9 shot him.

10 So the sheriff goes over to the guy. He says, can  
11 you corroborate your story? He says I certainly can. And he  
12 says come on with me. They take a ride a mile outside of town  
13 and he says there it is. Sure enough, there is that old oak  
14 tree. There is his corroboration.

15 Okay. That's what I mean by illusory, quote,  
16 corroboration.

17 The prosecutor made quite a thing over the fact that  
18 it was snowing on March 19th of 1992. It was snowing that  
19 day. And actually, Frank Fiordilino testified that that day  
20 was memorable because Sam DiFalco's body had been found and it  
21 was being talked about in all the coffee shops. So it was a  
22 memorable day. And it, indeed, was snowing that day.

23 Now, ask yourself, does the fact that it was snowing  
24 that day corroborate in any way Mr. Fiordilino's testimony  
25 that Baldo Amato referred to Sammy DiFalco as a piece of shit?

1 It doesn't. It's illusory corroboration.

2 It corroborates that he remembers that day as  
3 snowing but it doesn't corroborate anything else.

4 Another instance and I will leave this subject, but  
5 I may touch upon it as we go through the crimes, is yesterday  
6 the government made quite a big thing over the fact that -- I  
7 am going to using the government's map here, if I can.

8 This is a map showing Fresh Pond Road here, and Cafe  
9 Giannini is here and a vacant store is here.

10 The government made a big fact, a big splash over  
11 the fact that Anthony Tabitta had said that this store was  
12 vacant, it was Sammy DiFalco's store. It had a basement in it  
13 and this in some way was supposed to corroborate his  
14 testimony, which we are going to go into in some detail about  
15 a plan to murder Sammy DiFalco.

16 But, you know, we heard testimony that this same  
17 location was where the Cafe Nina was for four years, in the  
18 late eighties.

19 (Continued on next page.)  
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21  
22  
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25

1           MR. WHITE:   (Continuing)   This was in the late  
2 '80s to closing. Cafe Giannini is where all these guys hung  
3 out. Anthony Tabbita testified there was a garage behind Cafe  
4 Giannini where they were hanging out. Remember that building  
5 where Cafe Giannini was owned by Fabio Bartolotta's mother?  
6 So, of course, they would know there's the store that had been  
7 Cafe Nino is vacant, familiar with the insides of it. There's  
8 evidence presented to you as corroborative but it really  
9 doesn't corroborate anything. It certainly doesn't  
10 corroborate anything about Baldo Amato being involved in the  
11 murder conspiracy of Sammy DiFalco.

12           When you are deliberating, you're reviewing the  
13 evidence, the corroboration, just try to remember that old  
14 crooked oak tree. What does this really corroborate? Does it  
15 corroborate the guilt of Baldo Amato or does it corroborate  
16 some side issue that's nice, that it was tied up, that loose  
17 end is tied up that doesn't advance the thought in any way?

18           The evidence of Mr. Amato's involved in the murder  
19 of Robert Perrino is basically what's called direct evidence.  
20 The judge will tell you about it. It's direct evidence  
21 because Sal Vitale is saying he himself spoke to Baldo and  
22 Mr. Amato agreed to kill Robert Perrino. Frank Ambrosino he  
23 himself saw Baldo Amato outside of Mr. Basile's club. So,  
24 that's direct evidence.

25           The murder, the evidence of the murder of Sammy

1 DiFalco, on the other hand, is basically circumstantial  
2 evidence. The government is asking you to draw from all the  
3 surrounding circumstances the conclusion that Baldo Amato  
4 conspired to murder Mr. DiFalco and in fact murdered him.

5 The judge will tell you this, absolutely nothing  
6 wrong with circumstantial evidence. It could be the basis for  
7 conviction. A circumstantial evidence case is sufficient if  
8 it's sufficient and what makes it sufficient is the  
9 conclusions you draw, the inferences you draw from the  
10 circumstantial evidence.

11 They have to be logical and reasonable. They can't  
12 be guesswork or suspicion or it might have happened this way.  
13 I suggest to you that the government's theory of Mr. Amato's  
14 involvement in the murder of Sammy DiFalco is just that. It  
15 could have happened this way. It's speculation. It's  
16 surmise.

17 One other broad subject I want to stress to you  
18 before I go into the individual counts is what's known as  
19 coconspirator statements. You heard a lot of evidence in this  
20 case of what other people who did not testify here said to  
21 people who did testify. Sal Vitale, if you recall his  
22 testimony, over and over and over again, he was asked how do  
23 you know that? Joe Massino told me. How do you know this?  
24 Joe Massino told me. How do you know that? Joe Massino. It  
25 sounded like maybe three-quarters of his whole wealth of



1 knowledge is based on what Joe Massino told him.

2 Similarly, Joe D'Amico testified that his cousin  
3 Richie Cantarella, he told me this, he told me that Frank  
4 Fiordilino, you know, Cheech Navarra, how do you know that, my  
5 uncle told me? Did Baldo Amato -- well, how do you know, he  
6 told me.

7 Frank Ambrosino, it was Robert Lino Junior told me.  
8 Half of his testimony is Robert Lino Junior told me.

9 Now, that evidence is admissible. You can consider  
10 it, but the fact that it's admissible for your consideration  
11 doesn't mean you have to credit it. After all, none of these  
12 speakers were here on the witness stand and subject to  
13 cross-examination. There's actually three levels of inquiry  
14 you have to make with respect to these. One, when the witness  
15 said so and so told me this, you have to ask yourself is this  
16 witness telling the truth? Did someone tell him that? Did  
17 Joe Massino really tell Sal Vitale that Baldo Amato killed  
18 Sammy DiFalco? So, that's your first question.

19 Then you have to wonder if he did tell him, was the  
20 speaker telling the truth? When the speaker spoke to the  
21 witness, was the speaker telling the truth?

22 Thirdly, if the speaker was speaking truthfully to  
23 the best of his knowledge, did the speaker really know what  
24 he's talking about? Where did he get his information? Was it  
25 a rumor, something he heard? Is it reliable? Is it

1 trustworthy?

2 I ask you during the government's presentation,  
3 these types of statements were presented to you as if it's the  
4 gospel truth beyond question. It's highly questionable  
5 testimony. You have to be particularly sensitive to evidence  
6 based on somebody who didn't take the witness stand and  
7 subject to corroboration, whether that person really knew what  
8 they were talking about at all.

9 On that subject, I asked Mr. Vitale are members --  
10 I asked him for this reason I'm explaining to you. I said are  
11 members of organized crime trustworthy? He said, the answer,  
12 to an extent, sir. Well, if they tell you something, can you  
13 rely on it? This is Sal Vitale's own answer. No, I would go  
14 further and check on it if it was important, okay?

15 That's what I'm telling you, the same thing, that  
16 Sal Vitale wouldn't believe another organized crime member  
17 unless he himself checked it, verified it, for good reason.

18 I asked him, was Mr. Massino a calculating guy?  
19 Very, he answered. Was he capable of telling a lie? Yes, he  
20 was. I asked him about the murder of George from Canada which  
21 Sal Vitale admitted his participation in. I said did you ask  
22 Mr. Massino why he wanted George murdered? I did not, sir.  
23 Why didn't you ask him? I figured he wouldn't tell me the  
24 truth anyway.

25 This is Sal Vitale talking about Joe Massino. So,

1 when Sal Vitale testifies in this court that Joe Massino told  
2 him something, is it something that you could base a guilty  
3 verdict on?

4 I used an example of this with Mr. Vitale. It was  
5 early in the trial. I hope you can remember it. One of the  
6 things Mr. Vitale testified to was the first murder he was  
7 involved in was the murder of a man with the unfortunate name  
8 of Doodoo Pastore. The way it worked, according to Sal  
9 Vitale, Joe Massino told Sal Vitale to borrow \$10,000 off  
10 this guy. Then this guy, Doodoo Pastore, was murdered on the  
11 second floor above the deli that Joe Massino owned.

12 Joe Massino asked Sal Vitale for the money, \$10,000,  
13 was actually nine thousand he got, and then he told Sal Vitale  
14 that Doodoo Pastore had been murdered by a guy named Tooti  
15 Franchese.

16 I asked Mr. Vitale a question about that. I said  
17 other than Mr. Massino telling you that, do you have any way  
18 of knowing whether it's true? He said no, I don't, because it  
19 could have been just as easily Mr. Massino murdered him  
20 himself, pocketed the money, said yes, he was murdered by this  
21 other guy Tooti Franchese. I followed up. I said other than  
22 Mr. Massino telling you Baldo Amato murdered Sammy DiFalco, do  
23 you have any reason to believe it's true? He said no, he  
24 didn't. That's why I tell you you have to be cautious about  
25 testimony of people who didn't testify.

1 I'll give you one more example of this. Frank  
2 Fiordilino, he was a guy who I just mentioned attributed much  
3 of his knowledge to his uncle, his Uncle Cheech Navarra told  
4 him this. Yet, when Frank Fiordilino committed the murder of  
5 Thomas Sajn, he lied why he was murdering him. He said I have  
6 to murder this guy, he's selling drugs in the neighborhood.  
7 When I went to challenge him on it, he pulled a gun on me so I  
8 have to murder him. Actually, Mr. Frank Fiordilino admitted  
9 he had murdered him because of trying to rob the drugs. They  
10 needed money.

11 Let's suppose that Cheech Navarra now goes, tells  
12 somebody else in the Bonanno Family that guy was murdered  
13 because he had pulled a gun on Frank Fiordilino, it's a  
14 perfect example why you can't rely on it. You can't certainly  
15 base a verdict on the scuttlebutt that goes around between  
16 members of organized crime and families.

17 A couple of more general areas. Then I'll discuss  
18 the charges.

19 Under the category was the witness, what was the  
20 witness' demeanor on the witness stand, you have to consider  
21 was the witness candid? Did the witness speak frankly or  
22 spontaneously? I would like you to ask yourself in reviewing  
23 the testimony of the witnesses who many of you heard were  
24 interviewed and prepared many many times before they  
25 testified, did it appear at times that their testimony was

1 kind of scripted, they knew what the question was going to be  
2 and they knew what the answer would be? You'll see it in  
3 various witnesses. One thing that seemed constant to me  
4 throughout the trial, it may have struck you this way, all  
5 these Little Sal head shots, these shots, it appeared to me  
6 during the trial, a witness would be asked, for example, do  
7 you know a man named Sal Montana? Yes I do. Who is this?  
8 Sal Montana.

9           What kind of identification is that where each time  
10 the witness is cued in advance before the witness identifies  
11 who the individual is? I think you can assume that these  
12 witnesses had looked at these titles, I'm calling them photo  
13 titles of individuals before they ever took the stand here.  
14 So, I'm going to mention a few specific instances when we go  
15 through the charges.

16           One other general area, law enforcement witnesses.  
17 We had many law enforcement witnesses here. These witnesses,  
18 by and large, testified to basically uncontestable facts; that  
19 they searched this premise, that they found a body in this  
20 car, that they moved the car here, recovered a shell or a  
21 bullet from a crime scene. This was basically uncontestable.

22           But there were a few police witnesses who testified  
23 in ways that appeared to help the prosecution, basically. I  
24 want you to be sensitive to it and I'll be talking to you  
25 about a few of them. This is not at all an accusation that

1 any of those police officers, any came in and lied to you,  
2 took that stand, committed perjury. These were people who  
3 basically devoted their lives to public service, but police  
4 officers, detectives, detectives assigned to the Organized  
5 Crime Unit, think, kind of have a professional interest, a  
6 Little Sal professional leaning one way or another. So, their  
7 testimony can drift to just helping the prosecution case and  
8 I'll point that out to you.

9 One minor example is there was this police officer  
10 or Detective Manny Gomez. He basically testified about Cafe  
11 Vienna robbery. He testified to what happened there,  
12 basically uncontestable what happened at the Cafe Vienna.

13 Then he went on to say he was familiar with the Cafe  
14 Giannini and that he was familiar with this guy and this guy  
15 who hung out there. I think he's the only witness in the  
16 whole trial, if memory serves me, that testified that he saw  
17 Baldo Amato at the Cafe Giannini. I think he's the only one  
18 who testified that way.

19 He was asked on direct testimony and again where  
20 Cafe Giannini was? Yes. Do you know where the restaurant  
21 Giannini was? Yes, it's a little further along on Fresh Pond  
22 Road. So, Restaurant Giannini, as we know now, is not on  
23 Fresh Pond Road at all.

24 When I cross examined, I said where on Fresh Pond  
25 Road was it? He said he didn't recall. I said where in

1 relation to the cafe? I don't know. Elliot Avenue. I don't  
2 know. So, doesn't that suggest to you he was just saying that  
3 to kind of advance the case a little bit? This is the kind of  
4 professional interest I'm asking you to be on guard with.

5 Was he lying? No, he was kind of gilding the lily,  
6 so to speak, to help the prosecution case move along.

7 Finally, I just want to say one thing about Baldo  
8 Amato's friends. He did have friends, George from Canada,  
9 Gerlando Sciascia was a friend of his. His family was a  
10 friend of his. These are people from Sicily. They know each  
11 other for years. When Sal Vitale murdered George from Canada,  
12 he testified Baldo came to him to ask him what happened and  
13 had tears in his eyes.

14 Cesare Bonventre, likewise, a friend of Baldo Amato,  
15 Cesare was murdered by Sal Vitale and others in 1984.  
16 Mr. Amato doesn't deny that friendship. They were friends.

17 You saw these prison visitation records introduced  
18 on the last day of the government's case. Sammy DiFalco  
19 visiting form, for visiting Baldo Amato. Occupation,  
20 accountant, restaurant owner. Relationship to above named  
21 individual? Accountant/friend. Yes, he was a friend.

22 There are others. The government introduced the  
23 prison record of Gaspare Bonventre, I guess because of the  
24 last name, Bonventre. Check out his date of birth.  
25 November 2nd, 1916.

1 Prison records of visits from Bruno Marchese, yes a  
2 friend of Baldo Amato. Antonino Mistretta, Nino Mistretta,  
3 his cousin, Baldo's cousin.

4 On his application form to visit Baldo Amato, he's  
5 asked how he knows the inmate. Second cousin. How long do  
6 you know him? All my life. We grew up together. These are  
7 his friends.

8 Salvatore Mistretta, 17-year old godson of Baldo  
9 Amato. These are the people that the government is trying to  
10 show an association with. Well, you know, friendship is not a  
11 crime. Mere association with criminals is not a crime. Of  
12 course, mere association with non-criminals is not a crime.  
13 It's only a criminal association you participate in is a  
14 crime.

15 I want to take out of this case any issue that Baldo  
16 Amato is denying his friendship with these individuals.

17 Let's talk about the charges of conspiracy to murder  
18 and the murder of Sammy DiFalco. Nina DiFalco testified as  
19 follows. This is just an excerpt.

20 Were you able to see the relationship between Baldo  
21 and Sammy in your presence? Did you have a sense of what  
22 their relationship was? Yes. How would you characterize it?  
23 They would laugh. They would laugh? Yes. Would you say they  
24 had a friendly relationship? Yes, definitely. Would you say  
25 Baldo acted in a crude manner or was he a gentleman?



1           This is the testimony of the wife of Sammy DiFalco  
2 at this trial.

3           Giovanni Annunziata, chef at the restaurant was  
4 asked these questions, gave these answers.

5           "QUESTION: Were you able to see what kind of  
6 relationship Mr. Amato had with Sam?

7           "ANSWER: Yes.

8           "QUESTION: What kind of relationship did they  
9 have?

10          "ANSWER: Friendship.

11          "QUESTION: Did Sam ever complain about Mr. Amato  
12 to you?

13          "ANSWER: Not with me.

14          "QUESTION: Did Mr. Amato ever complain about Sam  
15 to you?

16          "ANSWER: No."

17          George D'Avanzo, the head waiter at the cafe, were  
18 you able to tell from your interactions with Amato the nature  
19 of the relationship? The answer, friendly. Did you ever see  
20 them have harsh words? Answer, no. Did Sam ever complain  
21 about Baldo? No.

22          That's why Frank Fiordilino's testimony that Baldo  
23 Amato referred to Sammy DiFalco as a piece of shit is not  
24 only, I submit to you, an untruth, it's a slander. It's a  
25 slander. It's a slander on Baldo Amato. It's a slander on

1 Sammy DiFalco, a slander on their friendship. Sammy DiFalco  
2 was Baldo Amato's friend.

3 The claim that Sam DiFalco was a criminal associate  
4 of the Bonanno Crime Family, I submit to you, is also a  
5 slander. What did he do? What crime did he commit?

6 The prosecution in their summation relied or cited  
7 the testimony of Nina DiFalco about when federal agents  
8 arrived at their house, I believe it was the house, and wanted  
9 some tax records of clients of Sam DiFalco. She testified as  
10 follows. What happened? Two men showed up, showed me their  
11 badge. My husband was working downstairs. I called him and  
12 they wanted to see Tony Aiello's books. Then what happened?  
13 My husband went downstairs, showed them the records. They  
14 smiled. They thanked me and they left. When Salvatore  
15 Catalano, one of Sammy's clients and Tony Aiello, another  
16 client of Sammy who got arrested, did you ever talk to Sammy  
17 about that? Yes. What did you say to him? Gee, you know, don't  
18 you feel uncomfortable doing their taxes? He would always say  
19 what they do in their life is their life. I do what I have to  
20 do. I'm an accountant. They need my service. I supply that  
21 service.

22 The government actually said that to you this  
23 morning as proof of Sammy DiFalco's association with the  
24 Bonanno Crime Family; that he would do tax returns for people  
25 who were members of the Bonanno Crime Family. I suppose a

1 doctor who treated a member of the Bonanno Crime Family would  
2 be an associate of the crime family under the same thing.

3 What else did Sammy DiFalco do? He ran a  
4 restaurant. He was an accountant and he ran a restaurant. In  
5 that restaurant, undoubtedly, mobsters ate there, probably ate  
6 there a lot. Again, does that make him an associate of the  
7 Bonanno Crime Family?

8 The government in their statement today, they cited  
9 the testimony of four cooperators that Sam was an associate of  
10 the Bonanno Crime Family. Of course, saying it without  
11 showing how he was an associate is easy. Talking about the  
12 expert, Mr. Carillo, I kept trying to break him down, what did  
13 he do? He said on the basis that Sam DiFalco gave Baldo Amato  
14 a job when he got out of prison, that was enough to make him a  
15 criminal associate.

16 I'll tell you why there's a fair amount about Sam  
17 DiFalco and involvement, peripheral as it may be, in criminal  
18 activity, along with Nino Mistretta and Bruno Marchese owned  
19 the building that the restaurant, Cafe Giannini was in. He  
20 and Sam DiFalco ran the restaurant, Mistretta and Marchese ran  
21 the cafe. In the back of that cafe there was a gambling room  
22 and there were Joker-Poker machines in there. To the  
23 extent -- and Sammy DiFalco knew it. It was his building.  
24 He knew what was going on there. To the extent that he knew  
25 there was gambling, Joker-Poker machines in the back of the

1 cafe, maybe to that extent you could say okay, the guy knows  
2 there's criminal activity. Does that make him an associate of  
3 the Bonanno Crime Family? His wife Nina said, I said what did  
4 you make on those joker-poker machines? Not much. They were  
5 in every store you went.

6 If that makes Sam DiFalco an associate of the  
7 Bonanno Crime Family, it's unfortunate because he was a good  
8 guy and a legitimate guy.

9 Anthony Tabbita. Were you here? Were you here when  
10 he testified? Did you see him? Did you hear him? I mean it  
11 would be presumptuous of me to say that no jury could ever  
12 convict anybody of any crime based on the testimony that you  
13 heard and saw from that witness box, when you consider the  
14 factors of demeanor, corroboration and obligations.

15 It would be presumptuous of me to say that, but it's  
16 sure tempting when it comes to Anthony Tabbita. He's one of  
17 the witnesses who didn't minimize what he did. Sure, I shot  
18 that guy in the head. I said did you come at him from the  
19 front or back? His hands were tied? He said I came from the  
20 front, didn't minimize anything. I suggest to you there's two  
21 reasons he didn't. He doesn't have to anymore. He's been  
22 sentenced. He doesn't have to minimize.

23 Secondly, you might conclude Anthony Tabbita is a  
24 psychopath. Here's a guy who had an Uzi with a silencer,  
25 killed some dog so he could rob a house, a man without a moral

1 conscience.

2           The government this morning, they presented his  
3 testimony, straight-faced, like here's what he testified to,  
4 as if this is something that's the gospel truth, you know?

5           I submit to you that he, of all the witnesses in  
6 this trial, is by far the most untrustworthy, but let's assume  
7 for a minute that he wasn't. Let's assume for a minute,  
8 ladies and gentlemen, that he wasn't. The prosecution this  
9 morning went through excerpts from his testimony about Sammy  
10 DiFalco. I want to go through that same testimony with you  
11 now. I'm really going to ask your patience. It's not that  
12 long, but it's basically critical, I think, to the Sammy  
13 DiFalco charges. I want to go through Anthony Tabbita's  
14 direct testimony, nothing to do with cross-examination,  
15 nothing to do with impeaching his credibility, his direct  
16 testimony and ask you if his direct testimony, uncross  
17 examined, just what he said, is sufficient for you to find  
18 Baldo Amato guilty of the Sammy DiFalco murder, murder  
19 conspiracy.

20           This is critical because this morning the government  
21 had a lot of theories about how Baldo Amato was staying close  
22 to Nina, was out at her house after Sammy disappeared; that in  
23 normal circumstances that could be okay, but it's suspicious  
24 here or damning here because Anthony Tabbita testified that  
25 DiFalco was murdered on the order of Baldo Amato. So, in a

1 way Anthony Tabbita's testimony is the linchpin, the  
2 foundation of all the government's theories about Baldo  
3 Amato's involvement in that murder.

4 Just listen to this testimony. I'm going to read  
5 large portions of it, those that are irrelevant or I consider  
6 irrelevant, it's all available to you. You can read it in its  
7 entirety when you retire to the jury room.

8 Q Why did you conspire to kill him?

9 A I was asked to.

10 Q Who asked you?

11 A I believe it was one of the Sals also the associate of  
12 Baldo Amato."

13 Think about it. He's qualifying. Who asked you? I  
14 believe it was one of the Sals, not sure which one. He's not  
15 sure it was one of them because I believe it was one of the  
16 Sals. I believe it was one of the Sals that were also  
17 associates of Baldo Amato. Do you know someone named Sal  
18 Montana? Yes. Showing you 2 X X, is that Sal Montana? Yes,  
19 that's Sal Montana. What conversation did you have with Sal  
20 Montana about the conspiracy to kill Sammy DiFalco initially?  
21 How did you get involved? It was mentioned by either Sal  
22 Montana or the other Sal.

23 Now, I'll point this out to you. This is one of  
24 three times that the prosecutor tries to put into the mouth of  
25 Anthony Tabbita it was Sal Montana and Tabbita. He's coming

1 back and saying it was one of the Sals. He said it was either  
2 one of the Sals. The government says what conversation did  
3 you have with Sal Montana because that's the government's  
4 theory that Sal Montana is close to Baldo and Sal Montana was  
5 in the restaurant; that Tabbita said he came, asked for the  
6 keys. Sal Montana is the guy who spoke to Frank Fiordilino  
7 about is Anthony Tabbita implicating me in the DiFalco murder?  
8 So, the government wants it to be Sal Montana.

9 What conversations did you have with Sal Montana  
10 about the conspiracy to kill Sammy DiFalco initially? How did  
11 you get involved. It was mentioned by either Sal Montana or  
12 the other Sal. You mentioned the other Sal. Does he have a  
13 nickname? Little Sal. Showing you Government Exhibit 2 BBB,  
14 who is that? I believe, I think it's Little Sal. You say I  
15 believe you think. How sure are you? I'm 99 percent sure.

16 Well, I don't know what 99 percent sure exactly  
17 means. It means you're not sure, right? You're not sure to  
18 some degree. So, he couldn't really recognize that guy  
19 unequivocally. Did Little Sal have an affiliation with Baldo  
20 Amato? He was an associate."

21 That's an answer we heard all the trial long,  
22 allegations that people were associates.

23 What did you know about Little Sal before you got  
24 involved with him in this murder conspiracy? I believe it was  
25 he was in the deli business, friend of Sal, Baldo Amato .

1           He's in the deli business, a friend of Sal. That's  
2 how he's an associate of Baldo.

3       Q     So, what conversations did you have with Sal Montana  
4 about Sammy DiFalco?"

5           Now, this was put up on the screen by the government  
6 this morning, this Little Sal portion.

7           What conversations did you have with Sal Montana  
8 about Sammy DiFalco?

9           They asked me to participate in a murder.

10          It's kind of an interesting ambiguous use of that  
11 because he, Tabbita, is talking about it, either one of the  
12 Sals. The government is still trying to force it to Sal  
13 Montana so he doesn't dispute the Sal Montana this time. He  
14 says they asked me to participate in a murder. What did he  
15 say to you? He said it came from Baldo. He said it came from  
16 Baldo. What is the order, to do what? Kill Sammy.

17           (Continued on next page)

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1 MR. WHITE: By the way, Tabbita never testified,  
2 ever, of any conversation at any time of anyone at all with  
3 Baldo Amato. His only information that Baldo Amato was  
4 involved in this order was one of the Sals told him, and as I  
5 pointed out at the beginning he said: "I only believe that I  
6 got it from one of the Sals."

7 Then, he testifies this I brought Vito Guzzo into  
8 it.

9 "QUESTION: Why did you bring Vito Guzzo into it?"

10 "ANSWER: I don't remember."

11 "QUESTION: Would you have had to have gotten  
12 permission to bring Vito Guzzo into it?"

13 "ANSWER: Yes."

14 "QUESTION: Do you recall bringing Vito Guzzo into  
15 it?"

16 "ANSWER: No."

17 "QUESTION: Did Vito Guzzo get into it?"

18 "ANSWER: Yes."

19 What kind of quality and quantity of evidence or  
20 testimony is this is that you would convict somebody of murder  
21 on this guy's sketchy recollection or hallucination perhaps of  
22 what occurred back in 1992.

23 Then, he talks about the different plans.

24 "QUESTION: Did you and the co-conspirators consider  
25 it a problem to kill Sammy DiFalco in your restaurant?"

1 "ANSWER: No."

2 "QUESTION: Did you ever discuss that with?"

3 "ANSWER: Baldo Amato no.

4 This is the prosecutor asking the questions, this  
5 isn't my cross-examination.

6 "ANSWER: We set up in front of the restaurant in a  
7 car."

8 "QUESTION: Who?"

9 "ANSWER: Me, Vito, Sal."

10 "QUESTION: Which Sal?"

11 "ANSWER: It was either both or one."

12 He testifies that a cop car pulled out.

13 "QUESTION: Do you remember who was driving?"

14 "ANSWER: I believe it was Sal."

15 "QUESTION: Do you know which Sal?"

16 "ANSWER: No."

17 "QUESTION: Who else?"

18 "ANSWER: We pulled away and that was it for that  
19 plan."

20 That was his answer to that in plan two.

21 "QUESTION: You mentioned this was a plan to perhaps  
22 pull up next to him in his car?"

23 "ANSWER: Either his car or the restaurant."

24 "QUESTION: Did you carry out that plan?"

25 "ANSWER: No."

1 "QUESTION: Why not?"

2 "ANSWER: Same reason, I guess.

3 MR. WHITE: You guess?"

4 "ANSWER: The same reason."

5 "QUESTION: Because the police came by?"

6 "ANSWER: Yes."

7 Plan three: Lure him to an empty store on Fresh  
8 Pond.

9 "QUESTION: And at that time, who owned the  
10 location?"

11 "ANSWER: Sammy DiFalco."

12 "QUESTION: What was the plan?"

13 "ANSWER: I would told Sammy that somebody wanted to  
14 rent his store which was Vito Guzzo. I was going to ask him  
15 to come with us do see the store and we were going to ask him  
16 to look at the basement and we would have shot him."

17 Okay, you all remember that.

18 "ANSWER: Instead of Sammy coming, he gave us the  
19 keys."

20 "QUESTION: Where were you when you asked Sammy  
21 DiFalco to come with us?"

22 "ANSWER: At Giannini Restaurant."

23 "QUESTION: Who was at Giannini's Restaurant?"

24 "ANSWER: Baldo Amato and Sal Montana."

25 Now, the prosecution portrayed that testimony as

1 chilling, chilling. Well, I guess it would be chilling if  
2 there was proof that Baldo Amato and Sal Montana were involved  
3 in that plan to lure Sammy to the other location where he  
4 could be shot but there isn't any evidence. There is not even  
5 any evidence that Sal Montana was there. Anthony Tabbita  
6 himself was not sure of who was involved, so how chilling is  
7 that if it's true at all that they came to the restaurant and  
8 asked Sammy for his keys and they planned on murdering him.  
9 They being Vito Guzzo and Anthony Tabbita according to  
10 Tabbita's version.

11 "QUESTION: Sitting here today, sir," direct  
12 testimony, "Do you know who actually killed Sammy DiFalco?"

13 "ANSWER: No."

14 "QUESTION: Did you ever have an understanding as to  
15 why Amato wanted Sammy dead?"

16 "ANSWER: I believed it was over money. I believed  
17 it was over money."

18 "QUESTION: How do you know that, how did you come  
19 to that understanding?"

20 "ANSWER: That was the reason Sal brought to my  
21 attention."

22 "QUESTION: Sal Montana?"

23 "ANSWER: One of the Sals."

24 That's the testimony. That's the testimony on which  
25 the charges against Baldo Amato rest and it's the testimony on

1 which all the Government's theories about Baldo telling false  
2 statements to the police allegedly or acting suspiciously  
3 around the police or acting suspiciously toward Nina DiFalco.

4 That testimony, especially when you recollect  
5 Mr. Tabbita on the witness stand, you know, the Government  
6 stated today that Mr. Tabbita didn't want to be here and he  
7 was afraid, okay, but yes, he testified at the end of his  
8 examination on redirect in the context of whether he was  
9 better off now or worse off having entered into a plea  
10 agreement. One of the ways he said he was worse off was that  
11 he had to look over his shoulder. Remember, he had to look  
12 over his shoulder. But that really wasn't why he didn't want  
13 to be here, that was unrelated. He didn't want to be here,  
14 you saw him on the witness stand, what the hell are you  
15 bothering me for I've been sentenced already. He's been put  
16 upon, he's been subpoenaed to come back here. He got his  
17 71 months, he's out of prison, he didn't want to be here  
18 because, screw you, that was basically his attitude, was it  
19 not? Didn't he say that? Wasn't that the demeanor he  
20 displayed, that resentful arrogant, I got my deal, I got my  
21 sentence, get out of my life. That's why he didn't want to be  
22 here.

23 Was he involved in a conspiracy with Vito Guzzo to  
24 murder Sammy DiFalco? Who knows? Maybe he was. Was one of  
25 the Sals, either one of them involved? Who knows. Maybe one

1 of them was, but his testimony that Baldo Amato was involved  
2 is so remote, so thin, so stretched out, in a word, so  
3 unreliable as to be meaningless and certainly not the basis  
4 for a verdict of guilty against Baldo Amato.

5 Bear in mind in February of 1992 when Sammy DiFalco  
6 disappeared what was Anthony Tabbita doing. He was murdering  
7 people. He was murdering people. He murdered Kenny Drinkham  
8 over some drug deal but it wasn't his drug deal, it was Vito  
9 Guzzo's drug deal and Anthony Tabbita testified he wanted to  
10 get close to Vito Guzzo so he kind of volunteered for that  
11 murder.

12 Do you remember that? Well, I'll read it to you.

13 "QUESTION: Now this murder of this fellow who you  
14 just referred to Kenny Drinkham, that was about six months --  
15 seven or eight months before you went away to prison in early  
16 1992. " So maybe five or six months before DiFalco's  
17 disappearance Sammy disappearance?"

18 "ANSWER: Yes."

19 "QUESTION: And he was murdered in a house in  
20 Jamaica."

21 "ANSWER: Yes."

22 "QUESTION: AND the reason he was murdered was what  
23 he did was he had a cocaine deal with your friend Vito Guzzo  
24 and he switched the cocaine on Vito Guzzo. Do you remember  
25 that?"

1 "ANSWER: Yes."

2 "QUESTION: And Vito Guzzo wanted him killed as a  
3 result of that?"

4 "ANSWER: Yes."

5 "QUESTION: So you, Fabio Bartolotta, and his uncle  
6 Paul Ragusa you had a meeting and you decided to kill this guy  
7 so you can be with Vito Guzzo, correct?"

8 "ANSWER: Get closer to Vito, yes."

9 "QUESTION: And, at the time, was Vito Guzzo  
10 associated with any organized crime families?"

11 "ANSWER: Yes."

12 "QUESTION: What family was that?"

13 "ANSWER: Colombo."

14 Then, the murder of Steven Pagnozzi and John Ruisi,  
15 the double homicide where Anthony Tabbita and his friends  
16 wanted to steal this guy's marijuana brought him to Fabio  
17 Bartolotta's club. These guys wouldn't give up the marijuana  
18 and so Vito Guzzo and Anthony Tabbita shot each of them in the  
19 head at Fabio Bartolotta's club. The testimony was, and I  
20 believe it came from Anthony Tabbita, he's Giannini's  
21 Restaurant on Fresh Pond and here Anthony Tabbita testified  
22 that Fabio Bartolotta's club was right down the road about a  
23 block and a half away from Giannini Restaurant. This is where  
24 a couple of people were executed maybe Sammy was, too, we  
25 don't know.

1           So, he was asked just before a month before he went  
2 away to prison if he killed Steve Pagnozzi and John Ruisi?"

3           "ANSWER: Yes."

4           "QUESTION: Was that at or about the time you were  
5 conspiring to murder Sammy DiFalco."

6           "ANSWER: Yes."

7           "QUESTION: Now, where was Steven Pagnozzi and John  
8 Ruisi in the social club, Fabio's?"

9           Fabio's club was also used, do you remember, when  
10 Fabio's house, Fabio Bartolotta's house had been robbed and  
11 his mother's jewelry stolen. So Patsy Conte, a captain in the  
12 Gambino Family and boyfriend of Francesca Bartolotta, put out  
13 the word to get this guy Mike Hollywood who was suspected of  
14 robbing the jewelry. Tabbita himself suspects that was Fabio  
15 Bartolotta and so two friends of Mike Hollywood are grabbed  
16 and brought back to Fabio's club beaten, threatened, and  
17 eventually spared. I'm only bringing this up because this is  
18 all what's going on about the time that Sammy DiFalco is  
19 murdered -- disappeared and murdered.

20           One other crime that in the early '90s he testified  
21 to may shed some light on the mystery here of who killed Sammy  
22 DiFalco and I assure you I have no answer to that question.  
23 This has to do with an attempt to murder Robert Wisniak."

24           "QUESTION: And Robert Wisniak was to be murdered  
25 because he owed a \$10,000 debt to Paul Ragusa?"



1 "ANSWER: That was one of the reasons."

2 "QUESTION: And, if he were murdered the \$10,000  
3 debt would not need to be paid, correct?"

4 "ANSWER: Yes."

5 Similar to what happened to Pasatoro. Somebody owes  
6 you money, kill them and you don't have to pay the debt  
7 anymore.

8 There was some testimony that Anthony Tabbita,  
9 Anthony Tabbita, and Sciacca and some of friends had gotten  
10 into a fight at a restaurant with someone from Corona and hurt  
11 somebody there. Sammy DiFalco interceded and paid the  
12 hospital expenses, \$5,000, that it cost for the injuries and  
13 Tabbita was asked was he ever paid back, that money, and he  
14 was never paid back that money.

15 So, just a theory that rather than paying Sammy the  
16 \$5,000 he was owed, you know, you could always kill him.

17 There was also the John Barelli murder that Anthony  
18 Tabbita committed with Vito Guzzo but that was afterwards,  
19 after he got out of prison.

20 Now, Anthony Tabbita goes away to prison shortly  
21 after Sammy disappears, well, withdrawn.

22 Shortly after he testified of failed plans to kill  
23 Sammy and while he's away, shortly after he goes away, Sammy  
24 DiFalco is murdered, okay. And, we have evidence that Baldo  
25 Amato visited Anthony Tabbita upstate in prison several times

1 while he was up there.

2 Now, you can look at that two ways. You can look at  
3 it gee didn't that damning evidence of this relationship  
4 between Anthony Tabbita and Baldo Amato and here is Anthony  
5 Tabbita who I just described to you as a murderous individual  
6 who has been on a virtual binge of murdering people and here's  
7 Baldo Amato visiting him in prison.

8 So, isn't that good evidence that Baldo Amato was  
9 involved with Anthony Tabbita in the murder of Sammy DiFalco,  
10 a murder? Not really, and I'll tell you why. Out of  
11 Tabbita's own mouth on direct examination, he's asked these  
12 questions."

13 "QUESTION: You indicated that you Fabio Bartolotta,  
14 Paul Ragusa, Vito Guzzo, and Frank Fiordolino were associates  
15 on record with members of different organized crime families  
16 correct?"

17 "ANSWER: Yes."

18 "QUESTION: Did that prevent you from committing  
19 crimes with one another?"

20 "ANSWER: No."

21 "QUESTION: Why?"

22 "ANSWER: We were friends."

23 "QUESTION: And associates of one family commits  
24 crimes with another family?"

25 "ANSWER: You're not supposed to."

1 "QUESTION: Did you?"

2 "ANSWER: Yes."

3 "QUESTION: Did you clear that with anyone?"

4 "ANSWER: No."

5 "QUESTION: Is Baldo Amato, the person you are on  
6 record with -- is Baldo Amato, the person you are on record  
7 with, know that you were committing crimes with some of these  
8 individuals."

9 It's obviously a typo, this question.

10 "QUESTION: Did Baldo Amato, the person you are on  
11 record with, know that you are committing crimes with some of  
12 these individuals?"

13 "ANSWER: No.

14 Baldo Amato, when he visited Anthony Tabbita, didn't  
15 know that he had murdered Steve Pagnozzi, didn't know that he  
16 had murdered Kenny Drinkham, didn't know that he had attempted  
17 numerous other murders. Anthony Tabbita was serving a prison  
18 term for an assault. He was serving a prison term for an  
19 assault. That's Anthony Tabbita's own testimony shows, that  
20 all Baldo Amato would have known when he went to visit him.

21 Now, I pursued that question on cross-examination a  
22 little bit and I asked Mr. Tabbita.

23 "QUESTION: By the way, the three murders that we  
24 have just gone through, Kenny Drinkham, four murders actually,  
25 Mr. Ruisi and Mr. Pagnozzi and Mr. Barelli. Were you doing

1 that as an associate of the Bonanno Crime Family?"

2 "ANSWER: No."

3 "QUESTION: Were you doing that because you are on  
4 record with Baldo Amato?"

5 "ANSWER: No."

6 "QUESTION: Did he know anything about those  
7 murders?"

8 "ANSWER: No."

9 So, it's not as I said, it's not that Baldo Amato  
10 was visiting this murderous fiend in prison because he  
11 supported murder, it was because Anthony Tabbita was only in  
12 prison for an assault.

13 Now, it was very interesting on direct examination  
14 of Anthony Tabbita by the Government that it took pains to try  
15 -- for Anthony Tabbita to try to explain why when Baldo Amato  
16 visited him he never discussed Sammy DiFalco. And, Anthony  
17 Tabbita basically said well in the life you don't discuss  
18 murders.

19 Now, ladies and gentlemen of the jury, I keep coming  
20 back to you to use your common sense and your life experience.  
21 Think about this now one of the Sals' recruits, Anthony  
22 Tabbita, to murder Sammy DiFalco and he says Baldo has ordered  
23 this, right?

24 These young guys like to be, including Tabbita  
25 himself, they all testified as to they wanted to show they

1 were able guys they wanted to work their way up. They wanted  
2 to work their way up, that's why we would do things with  
3 Baldo, that's why we did this we wanted to show we were able,  
4 we were capable.

5 So, Anthony Tabbita he's recruited by one of the  
6 Sals, he engages in three fruitless plans to murder Sammy  
7 DiFalco, now he goes away to prison. Now, Baldo Amato shows  
8 up to visit him. Is it conceivable to you that in the  
9 meantime Sammy DiFalco is murdered?

10 Is it conceivable to you that the subject would  
11 never come up, they'd never mention it?

12 I mean, he never mention that Sammy DiFalco died, it  
13 just wouldn't come up. Wouldn't Anthony Tabbita say, you  
14 know, we tried to get him and we couldn't, you know, wouldn't  
15 Baldo say: "We finally got the guy." Isn't that just common  
16 sense? The fact that it was never brought up, never spoken  
17 about is, in my view, and I hope it's yours it's actually  
18 affirmative. He testified that Baldo Amato had no involvement  
19 with Anthony Tabbita in any conspiracy to murder Sammy DiFalco  
20 because it most surely would have been a subject of their  
21 conversation.

22 By the way there was, with the prison visits  
23 themselves. You know Baldo Amato has been in prison quite a  
24 bit, you saw his visitors list, people would visit him. He  
25 appreciated and knew the value of prison visits and also there

1 was testimony, it turned out there was testimony from a lot of  
2 sources: Tabbita himself, Frank Lino, investigator Carillo  
3 and Detective Vormittag that Baldo Amato had a residence in  
4 Hunter Mountain. Remember Frank Lino said he had one up there  
5 and Baldo Amato is about a mile away and Hunter Mountain is, I  
6 submit to you, not far from where Anthony Tabbita was  
7 incarcerated. So, it wasn't a great effort on the part of  
8 Baldo Amato to visit somebody from the area, from his  
9 neighborhood who was in prison.

10 Now, just to close out the subject of the prison  
11 visits and the fact that oh, we would never talk, you don't  
12 talk about a murder. Tabbita testified about the attempted  
13 murder of a guy they called him a Caldwell street guy, the  
14 wrong guy got murdered, I think his name was Anthony Masi and  
15 he was murdered instead and this happened in prison and how  
16 did he know about it? He was at this trial, he was shown, his  
17 sworn testimony from a previous trial where he was asked this  
18 question and gave this answer."

19 Withdrawn. First he said he was visited by Vito  
20 Guzzo, Paul Ragusa, John Clemenza and Joe Sciulara while he  
21 was in prison.

22 "QUESTION: What did you learn from them during the  
23 course of your incarceration?"

24 "ANSWER: Because me and Vito Guzzo became good  
25 friends."

1           He basically revealed exactly how he plotted and  
2       executed the hit on this Anthony Riccardo, that's the Caldwell  
3       Avenue guy. So that belies any idea that you don't talk about  
4       murders because he's explain to him how Vito Guzzo came up to  
5       say and he tried to murder this guy and we murdered the other  
6       guy instead.

7           These prison visits, I submit to you, are strong  
8       evidence of Baldo Amato's noninvolvement with Anthony Tabbita  
9       in the Sammy DiFalco murder conspiracy.

10          Now, I'll give Tabbita credit for this in his  
11       testimony because you'll see not all the cooperating witnesses  
12       were candid. He was asked, "Why did you decide to cooperate?"  
13       His answer was, "I didn't want to face the rest of my life in  
14       prison." Don't we know that's the true truth. That answer is  
15       the truth and it's true of all of these witnesses, even the  
16       ones that hedge on it; this is obviously why they cooperated.

17          And, in 1998 when Anthony Tabbita cooperated, this  
18       is when he implicated Baldo Amato in the Sammy DiFalco murder  
19       conspiracy and why would he do it at that point? Well, for  
20       one thing, most of his crimes are, if not all of them, Anthony  
21       Tabbita's were committed with this group of Ridgewood Boys or  
22       Giannini Boys or whatever you want to call them. And, at the  
23       time he cooperated he believed that numerous others of those  
24       guys who had already been arrested were cooperating.

25          So, he needs to provide information that's

1 additional to anything they may be saying, okay, he needs to  
2 give them something new. And, what do you have? You have you  
3 have an unsolved murder, a local murder of a popular  
4 restaurant owner six years later it's not been solved. Who do  
5 you have? You have Baldo Amato who is in the restaurant,  
6 worked there, a member of the Bonanno Crime Family, a perfect  
7 patsy for this. I'm sure there were suspicions that Baldo did  
8 it. Isn't he mobbed up? And this guy gets killed, didn't  
9 Baldo do it? He would be the number one suspect all the time  
10 based on his -- the evidence of his membership in the Bonanno  
11 Crime Family. He would be the number one suspect all the  
12 time.

13 So, for Anthony Tabbita to put Baldo Amato into that  
14 murder conspiracy was a way he could get mileage out of his  
15 own cooperation. It's a theory; whether that's the way it  
16 worked out, I don't know. I'm just giving possible theories  
17 to answer questions that you might have when you consider  
18 this: Because remember this about Anthony Tabbita you know he  
19 came across on the witness stand as, let's say, muted, muted.  
20 But you know he gave very short yes-and-no answers to all the  
21 questions. But we know that he was quite a schemer.

22 Don't forget that this is the guy who went before a  
23 grand jury and said it wasn't me who assaulted the guy, it was  
24 my buddy Sciacca and then they had Sciacca go before the grand  
25 jury and say: "It wasn't him, it was me." And the reason



1 Tabbita had prior convictions and he would get a big sentence  
2 if he were convicted and Sciacca said he didn't have any prior  
3 convictions. So, when I talk to you about cooperating  
4 witnesses who led lives of crimes and knew the testimony and  
5 knew how to manipulate it. This was the type of thing I'm  
6 talking about he was bold enough to do that.

7 He also was not afraid to operate on a grand scale.  
8 Remember his testimony of going to Bogota, the pronunciation  
9 of which I learned at this trial, Colombia, I learned at that  
10 time, to buy huge loads of cocaine. A plot that was hatched  
11 at the MDC with Fabio Bartolotta when he visited him and this  
12 scheme he himself, Tabbita, little old Anthony Tabbita, is  
13 down in Bogota Colombia trying to negotiate this huge cocaine  
14 deal. So, this guy knows how to deal on a grand scale.

15 And, remember when he robbed the drug dealers of  
16 \$50,000. They were supposed to give him -- he was supposed to  
17 give them a brick of cocaine and they were supposed to give  
18 him \$50,000 and what he gave them was a brick of coffee and  
19 then he made off with the money, okay.

20 When Anthony Tabbita told the Government that Baldo  
21 Amato ordered the murder of Sammy DiFalco, he was giving them  
22 a brick of coffee. And now at this trial, the Government has  
23 passed that brick on to you.

24 I would like to talk about Frank Fiordolino.  
25 Fiordolino, I guess, the only purpose of his testimony was to

1 show, well, I take that back. Mr. Fiordolino is maybe the  
2 world's foremost authority on Baccarat and Joker Poker and he  
3 said he was a coffee boy at a cafe at age 13. He did this  
4 straight through to 2001 when he got a job as a bartender. He  
5 was a coffee boy in cafes, that was the extent of his career.  
6 The Peter principle leveled out in the coffee shop.

7           So we had a lot of testimony about Joker Poker and  
8 Baccarat put on the DiFalco murder. It's this conversation  
9 that he had with Baldo Amato and the potency of that  
10 conversation is to show that Baldo Amato hated or disliked or  
11 despised, I guess, Sammy DiFalco which is contrary to any  
12 other evidence in the case of any bad will, bad feelings  
13 between Baldo Amato or any problem whatsoever between Baldo  
14 Amato and Sammy DiFalco.

15           Now, Frank Fiordolino, I guess we all remember when  
16 he came into the court and he said: "I ain't testifying," and  
17 the judge said: "What?" And he said: "I ain't testifying."  
18 And we broke for lunch and we came back and he explained that,  
19 you know, "I was a bit nervous." I know the defendant, he  
20 knows me, I know the defendant and his family knows my family  
21 a long time. Whether that was genuine, whether he was play  
22 acting I don't know. But you know we had all these  
23 surveillances of wakes and such and one of them was the wake  
24 in July 6, 1997, of Baldo Amato's father and the Government,  
25 you know, made a point of showing all the people who were

1 there: Sal Vitale, you know, all these minor luminaries from  
2 the Bonanno Crime Family. But what interested me on this were  
3 the people who weren't there and I don't see Frank Fiordolino  
4 here, I don't see his uncle Frank Novarro here.

5 (Continued on the next page.)  
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1           MR. WHITE:   (Continuing)   He claims to know Baldo  
2 Amato's family a long time; that they're friends for a long  
3 time. They didn't show up at Baldo Amato's father's wake.  
4 So, you can take that with a grain of salt.

5           While I'm on this wake of Baldo's father, there's  
6 somebody else whose name doesn't appear. This is a defense  
7 exhibit in evidence of the surveillance report of the agents  
8 who took it. One of them testified here, James Meskill, an  
9 FBI agent. One of the names that went on here is Sal Montana.  
10 This is a good example of a law enforcement agent who just is  
11 constitutionally unable to give testimony that might be  
12 helpful to the defense. Not lying, just couldn't do it,  
13 almost like constipation.

14           I said was Sal Montana there? He said I don't  
15 remember. I said look is he here? Look on the list. I don't  
16 remember. So, the government gets up on redirect, says well,  
17 was this guy here? Yes, he was there. Was this guy here?  
18 Yes, he was there. Oh, yeah, he was there. Working from the  
19 same list. Now I go back, narrow it to the M's. Are all the  
20 M's there? Yes, he was there, he was there. Was Sal Montana  
21 there? He says I don't remember. He just was incapable.  
22 That's an example of professional interest of a law  
23 enforcement officer in giving testimony. Look through here,  
24 you're not going to find Sal Montana; Sal Montana's name as  
25 being at the wake of Baldo's father.

1           We're still with Frank Fiordilino. I took a Little  
2 Sal detour here. Remember the surveillance by Agent Floyd.  
3 This was in 1996, June 13th of 1996. We see four individuals  
4 on the corner, Ragusa, Tabbita, Frank Fiordilino and Vito  
5 Guzzo. When I asked Mr. Fiordilino did he recognize this  
6 person, he didn't at first. Then I showed him this other  
7 picture of Frank Fiordilino turned around. He said yeah,  
8 that's me with Anthony Tabbita, Paul Ragusa, Vito Guzzo.

9           I had the sense, maybe you did, too, that Frank  
10 Fiordilino kind of tried to in his testimony to distance  
11 himself from those guys, he was basically a coffee boy. It  
12 certainly doesn't look like it in that picture. It looks like  
13 he's pretty involved with Tabbita, Guzzo and Ragusa.

14           He testified he really wasn't in that clique, but  
15 the pictures suggest otherwise.

16           Now, he decides to cooperate very late in the game.  
17 He was arrested in June of 2002. He's supposed to go to trial  
18 in October of 2003 for the murder of Thomas Sajn. He tries to  
19 cooperate but at that late date, the government insists he  
20 plead guilty and we'll talk about cooperation later,  
21 apparently. So, he pleads guilty to the murder. Then he  
22 cooperates afterward.

23           One of the problems he had is that who is he going  
24 to give up? He testified that he was aware a whole bunch of  
25 Bonanno Crime Family people had cooperated and a whole bunch

1 of Ridgewood Boys had cooperated. He, basically, he was,  
2 probably to his credit, he was an ineffectual mobster.  
3 Throughout the '90s, you know, he never was a made member. He  
4 said he was basically born into the family, hung out with  
5 mobsters, half of his relatives were made members, but he  
6 basically was a coffee boy for all of the '90s, except he  
7 screwed up in murdering Thomas Sajn back in 1983, I believe it  
8 was.

9           So, now who is he going to give up? Because the  
10 government is not going to give him much of a break on a  
11 murder for his testimony about Joker-Poker, right? He has to  
12 give them something more than that.

13           At that point in time when he wants to cooperate,  
14 what does he know about Sammy DiFalco's murder and the murder  
15 conspiracy? He does know something. He does know something  
16 about it. He tells you how he knows it.

17           I asked him, did you ever look at Anthony Tabbita's  
18 302 regarding the Di Falco murder? That was in the garage.  
19 Yes. How long before you were arrested was this? Possibly,  
20 no, no, he was under house arrest, probably six months.

21           So, Fiordilino was arrested in June of '02, so maybe  
22 around December of '01, he read Anthony Tabbita's 302 on the  
23 DiFalco murder. He knows what Anthony Tabbita has told the  
24 FBI about the DiFalco murder conspiracy and the Sals and  
25 Baldo. He knows that.

1           When Fiordilino goes in to cooperate, he wants to  
2 provide information. He wants to help himself. He already  
3 has a basis that he can operate off, what he's read from  
4 Anthony Tabbita's 302.

5           So, I submit to you he comes up with this story  
6 about he and he alone speaks to Baldo Amato on, yes, a snowy  
7 day, the day that Sammy DiFalco's body has been discovered or  
8 new evidence has been discovered. He comes up with this  
9 conversation that Baldo Amato said to him partly in Italian,  
10 partly in English that, you know, about those motherfuckers  
11 come to see you about that piece of shit? I submit to you  
12 that not knowing anything more about Sammy DiFalco and the  
13 murder conspiracy or who murdered him, and only having Anthony  
14 Tabbita's 302 to work off of, Frank Fiordilino could create  
15 something that really couldn't be corroborated. There's no  
16 other witnesses. The snow could be corroborated but not  
17 whether anything like that ever was said, and he could offer  
18 to the government in trying to get his own cooperation  
19 agreement and get out from under the murder. That is a  
20 theory, a theory.

21           These things are only theories on my part, just like  
22 the government's theories are theories. I'm not saying  
23 anything it must have been this way, but these are plausible  
24 reasons why you could conclude a witness like Frank  
25 Fiordilino, looking to get out from under a federal murder

1 charge would come up with that story that is not consistent  
2 with anything else anybody else ever said about Baldo Amato  
3 and Sammy DiFalco.

4 He also testified, you'll recall, about meeting with  
5 Sal Montana and that Sal Montana's name was being thrown  
6 around; that he might be implicated, but that was right in the  
7 302. So, there's nothing that shows Sal Montana said to him  
8 Tabbita is trying to put nails in me. Yes, it's in the 302s.

9 Now, I was listening to Mr. Fiordilino on his direct  
10 examination. He was talking about other crimes he committed.  
11 One of them was he burned a car for his uncle or his cousin.  
12 The reason he did it, this is his direct examination, because  
13 supposedly this guy had said something, because supposedly my  
14 Uncle Dominick was a piece of shit and he didn't like that.

15 You know, that phrase caught my ear when he's saying  
16 that. So, on cross-examination I asked him about that. I  
17 said what was Dominick supposedly saying bad about your uncle?  
18 The answer, he said, it was my cousin. He was calling him a  
19 piece of shit. That was your cousin's term, piece of shit?  
20 Yeah, that's a term used a lot around my boys. Did you use it  
21 a lot? If I didn't use it, somebody is definitely using it  
22 about me.

23 I submit to you that that expression he came up  
24 with, piece of shit, is the type of expression that Frank  
25 Fiordilino will use, did use and was commenting on about but



1 not the type of expression that Baldo Amato would use and most  
2 surely not about his friend Sammy DiFalco.

3           One other piece of corroboration. I guess it didn't  
4 amount to corroboration. Fiordilino said Baldo was driving a  
5 black Saab at the time he had this conversation. I guess if  
6 the government had brought in registration records showing or  
7 a title of records showing Mr. Amato had a black Saab at the  
8 time, I would be arguing to you the black Saab as well as the  
9 crooked oak tree, it shows he knew what was going on at that  
10 time, but it turns out unlikely he had a black Saab at that  
11 time.

12           The reason for that, the very first witness,  
13 Inspector Carillo, the agent, the expert, he testified about  
14 surveilling the George Sciascia wake in 1999 and Baldo Amato  
15 attended that wake. Agent Carillo and the other agents  
16 recorded the license plates of the cars and ran the  
17 registrations. The car that Mr. Amato arrived in that wake,  
18 was a 1992 gray Volvo. So, I'll hold myself to the standard  
19 of the crooked oak tree and say maybe that doesn't corroborate  
20 much either, but there is no true corroboration of anything  
21 that Baldo Amato said to Frank Fiordilino on that day.

22           Something that is a little more problematic is the  
23 government's argument to you this morning that Detective  
24 Vormittag visited Baldo Amato at the restaurant that day and  
25 then Baldo Amato met Frank Fiordilino later and that's when he

1 asked him this, okay? Now, that fits the government's theory.  
2 It would be consistent, it would fit in nicely with Fiordilino  
3 except that's not really the way the testimony was.

4 Frank Fiordilino said it happened between 2:00 and  
5 2:30. Detective Vormittag testified at page 1935 of the  
6 transcript that the interview of Baldo Amato occurred 2:30 and  
7 3:00 o'clock. Baldo Amato was dressed in a tuxedo shirt and  
8 tuxedo pants. He had taken his tie off. Apparently, he was  
9 working lunch there. So, it couldn't have been that Baldo met  
10 Frank Fiordilino after Detective Vormittag came because it  
11 worked the other way around at the time.

12 I think it comes down to, again, would you hesitate  
13 to act in a matter of importance in your own life if you had  
14 the word of Frank Fiordilino to rely on? I think the answer  
15 is everyone of us would hesitate to act.

16 Now, the government has another arrow in its quiver  
17 in attempting to prove this; that Sal Vitale's testimony that  
18 Joe Massino told him that Baldo Amato murdered Sammy DiFalco  
19 and Joe Massino told him a few other things. He murdered him  
20 because he was robbing the restaurant; that Baldo hired Nina  
21 DiFalco afterwards and that Baldo was hitting on Nina DiFalco.

22 Mr. Vitale testified that this conversation occurred  
23 somewhere in the '90s, okay? Somewhere in the '90s. You'll  
24 recall that Joseph Massino was in prison when Sammy DiFalco  
25 disappeared and was killed. So, it certainly couldn't be

1 based on any personal knowledge of Massino.

2 Think of this. Just think of this. I mean I told  
3 you like when you hear coconspirator statements, is the  
4 witness telling the truth? Was the speaker telling you the  
5 truth? Thirdly, what was the speaker's basis of knowledge?  
6 We never heard how Joseph Massino knew this. He wasn't there.  
7 How does Joseph Massino know? Just think about it.

8 What happened to the restaurant after Sammy died?  
9 Nina ran it for a short while, then got help from her daughter  
10 and future son-in-law, Frank Guidice, then sold to Louis  
11 Restivo and Joseph Massino who opened up Casa Blanca  
12 Restaurant in the same plant, okay? Don't you think the  
13 murder of Sammy DiFalco was a constant subject of conversation  
14 in Casa Blanca? Whatever happened to the guy that used to  
15 work here? He got killed. How did it happen? Don't you  
16 think that was the subject of constant scuttlebutt and  
17 somebody saying Baldo hired his wife later, which isn't true.  
18 He asked her to come in and help with reservations. He wasn't  
19 in a position to hire her, then somebody adding yeah, I heard  
20 he was hitting on her. This is all speculation.

21 So, even if it's true, which you can surely doubt,  
22 that while Sal Vitale and Joseph Massino were walking down  
23 Cross Bay Boulevard in Howard Beach, that Joseph Massino was  
24 expounding on who had killed Sammy DiFalco, how in the heck  
25 would Joseph Massino know? Isn't what he's saying just rumor,

1 scuttlebutt, suspicion? That's the type of statement of a  
2 non-testifying speaker that you really should accord no weight  
3 to.

4           Nina DiFalco's testimony was revealing in a lot of  
5 ways. First of all, you know the general impression of Nina  
6 DiFalco. She justified very candidly for the prosecution.  
7 Then she testified just as candidly for the defense when I  
8 cross examined her. Did you get the impression she felt Baldo  
9 Amato had killed her husband?

10           The prosecutor said this morning she had wanted  
11 Baldo to phone Cathy and see, could Cathy shed any light on  
12 where her husband was, and that Baldo asked Giovanni  
13 Annunziata for the phone number, said forget about, don't  
14 bother.

15           Nina testified, speaking -- speaking about Baldo  
16 Amato, he said I believe he has the number or I had the  
17 number. I gave it to him. I said please, here's the number.  
18 Call up. Find out. Maybe she kidnapped him. I don't know.  
19 He goes alright, I'll try to call her because I need to know  
20 what happened. So, if at some point Baldo said I don't need  
21 the number, he had it from Nina according to her own  
22 testimony.

23           She also testified and this is going to tie in with  
24 Detective Jacobson's testimony that Baldo had called me -- as  
25 a matter of fact, I think he passed by one night. The first

1 two nights or three nights he had called to see if my in-laws  
2 were there and how many people and he came by and he brought  
3 food. Now, this is a stage at which everything Baldo Amato  
4 does here, the government says it's suspicious.

5 When they say it's suspicious, they say because we  
6 know he ordered the killing of Sammy DiFalco. That's why it's  
7 suspicious. The reason we know it is supposedly because  
8 Anthony Tabbita has testified to that, but Baldo comes over to  
9 the house, brings food for the in-laws like a good Italian  
10 should do.

11 She also testified she asked Baldo to do me a great  
12 favor. I heard that Cathy might come to the wake. Please try  
13 to stay by the door and if so, if you do see her, don't let  
14 her come in. Don't let her come in. He's trying to be  
15 helpful in every way. She testified he went to the wake both  
16 nights, to the funeral. I mean talk about being punished for  
17 good deeds, everything he did to try to be supportive, helpful  
18 is now being turned against him that he was doing it in order  
19 to stay close to her so he could follow the investigation and  
20 know what's going on. Does that sound like what actually was  
21 going on here? If it wasn't for Tabbita's testimony, would  
22 anybody possibly think that was what was going on here?

23 She testified that Sal Montana was her husband's  
24 friend. You know, here's Sal Montana and his wife and Nina  
25 DiFalco and Sam out in Las Vegas. This has nothing to do with

1 Baldo Amato. This relationship they have is independent of  
2 Baldo Amato. She testified she knew Baldo's wife, that she and  
3 Sammy would visit them, socialize with them, were a couple of  
4 friends.

5 She testified as to what his functions were at the  
6 restaurant. She said he was the day manager. Giovanni  
7 Annunziata also testified he would come in in the morning and  
8 he would be there through lunch; that he would check the  
9 produce, the dairy, whatever came in in the morning. For some  
10 reason, I can't explain, I'm mystified Michael said he didn't  
11 work there. I don't know why he would say that, but that's  
12 what he testified to.

13 She was asked what was her understanding whether  
14 Baldo was a partner in the Giannini Restaurant with Sam. She  
15 said no. Any interest he had in the restaurant? None at all  
16 she says. She was instrumental in the restaurant together,  
17 the planning of it. She knew how the name had been picked,  
18 Giannini after an Italian immigrant who had done good for  
19 other immigrants.

20 Nevertheless, it's Detective Jacobson who visits  
21 Nina on March 1st and the prosecution said March 1st was a  
22 Sunday. I guess it would be if 1992 were a leap year and I  
23 don't know if 1992 was a leap year, but the 27th was on  
24 Thursday, the 28th is Friday. Then the 1st is either Saturday  
25 or Sunday, depending on whether it was a leap year, but one

1 way or another, it's consistent with her testimony that Baldo  
2 is coming over there, being supportive, bringing food.

3 I remember when Detective Jacobson is on the stand,  
4 the government is asking in very hushed suspicious tones, when  
5 you're talking to Nina DiFalco, was there a plan in the room?  
6 Yes, there was. Was he listening to what you were saying?  
7 Yes. How far was he? Did he appear to be interested? Do you  
8 know what his name was? Baldo Amato. I mean what a bunch of  
9 baloney.

10 Taking this innocent thing, of course, Sammy has  
11 disappeared. Baldo is interested as anybody else in what's  
12 going on in the missing person investigation. The government  
13 turns it completely around. It's suspicious. They say why  
14 it's suspicious, because we know he ordered the killing  
15 because of what Tabbita testified. There was nothing sinister  
16 about Baldo Amato helping Sammy's family.

17 Detective Jacobson testified on that very day that  
18 two, possibly three days after Sammy disappeared, Baldo Amato  
19 told him, the detective, that he, Baldo, had left the  
20 restaurant at 5:30 on the day that Sammy disappeared.

21 He tells Detective Vormittag the same thing a few  
22 days late. The government says that's a lie. That is a lie  
23 and you can use that lie as evidence of consciousness of guilt  
24 Giovanni Annunziata, the chef, said he didn't work that day;  
25 when is he saying that, 2006, 14 years later. It's very

1 interesting to me to hear the government this morning trying  
2 to reconcile the testimony of Frank Lino and Frank Ambrosino.  
3 Well, the testimony, it's really not consistent but 14 years  
4 ago had gone by. Who is going to remember exactly what  
5 happened 14 years ago? That was the government's argument  
6 there. Here, because in 2006, Giovanni Annunziata's  
7 recollection is that Baldo Amato didn't work that day.

8 Baldo Amato lied to the police officers. I submit  
9 to you that makes no sense in the world. Again, use your  
10 common sense. Why would Baldo Amato, a couple of days after  
11 the event when it was fresh in everybody's mind, lie to a  
12 detective who can very easily verify it or find out it's not  
13 true? He's stupid? He's stupid to tell such a ridiculous  
14 lie: I was in the restaurant, worked that day until 7:30 when  
15 it could easily be disproven. He didn't lie. He did work  
16 that day.

17 Detective Vormittag, he took a statement from Baldo  
18 Amato at the restaurant. He says it was at the restaurant.  
19 We'll leave it it was at the restaurant. He said Mr. Amato,  
20 what I recall was he was non-argumentative, polite but not  
21 forthcoming. Now, that's the type of testimony from a witness  
22 who I said to you before has kind of a professional interest.  
23 I mean that's the type of testimony the detective would  
24 make -- it's not a lie. It's not a lie. He's trying to  
25 reconstruct the scene, but he, as I say, he's gilding the



1 lilly a little bit to help the prosecution's case along a  
2 little bit. He was not forthcoming.

3 I asked him in cross-examination: You said  
4 Mr. Amato was polite, not forthcoming, correct? I did. What  
5 question did you ask him that he refused to answer? I really  
6 don't recall but specific questions -- is there any other  
7 indication he wasn't forthcoming? He says no. Okay?

8 So, Mr. Amato's statement to the detective, I submit  
9 to you, is word-for-word accurate and truthful to the best of  
10 Mr. Amato's recollection at that time that there's not a  
11 dishonest word and for the same reason I told you, why in the  
12 world would Mr. Amato supposedly, sophisticated criminal, why  
13 in the world would he tell a detective false statements that  
14 could be easily refuted? He wouldn't do it. What he would do  
15 is keep his mouth shut. He wouldn't say anything, okay?

16 Now, that raises an interesting point because we  
17 heard from Sal Vitale, perhaps other witnesses, that it's a  
18 rule in organized crime you don't talk to law enforcement.  
19 So, in a way, it's unusual that Baldo Amato is talking to law  
20 enforcement here. There's a reason. The reason is this.  
21 Baldo Amato is not looking at this as an organized crime  
22 investigation. He's not looking at it that way. He's looking  
23 at it as an investigation into the disappearance and the  
24 murder now of his friend, Sammy DiFalco. That's why he's  
25 willing to speak to Detective Vormittag at all.

1           Detective Vormittag identifies himself from the  
2   Organized Crime Squad, but Mr. Amato wants to give information  
3   because his friend has been murdered. It makes no sense that  
4   he would give him information that was false and could be  
5   easily shown to be false.

6           Just to finish up on the DiFalco murder, Frank Lino,  
7   he was asked some question whether back in the day when he  
8   would go to the cafe on 13th Avenue in Brooklyn that Cesare  
9   Bonventre was involved in, Baldo Amato was a friend of Cesare  
10   Bonventre. Would he see guys there named Sal? He said yes.  
11   Of course, he was shown a picture of Sal Montana, yes. He was  
12   shown Little Sal, the other Sal. He says yeah, that's the  
13   other Sal although I think he was skinnier then. Like what  
14   kind of identification was that? There's this attempt to  
15   build an elaborate theory upon a very weak foundation.

16           In the government's opening I was listening  
17   carefully to it. I might have commented, I was eager to find  
18   out what the motive the government was claiming for what this  
19   murder could possibly have been. The government's opening was  
20   amazingly narrow. The prosecutor said Defendant Amato ordered  
21   the murder of Sammy DiFalco because it was in Defendant  
22   Amato's interest. That was about as vague as you could get.

23           I submit to you that the government itself was not  
24   confident in having any kind of motive for this murder.

25           What I really thought was interesting was one of the

1 very last witnesses, Detective Kevin Barry, a ballistics  
2 expert. He testified that Perrino was shot with a .22 and  
3 Sammy DiFalco was shot with a .22. He was asked to compare  
4 them, to see if they were fired from the same pistol. He did  
5 compare them and he concluded they were not fired from the  
6 same pistol. What was most interesting to me about that is he  
7 did that comparison on May 31st of 2006, one day after the  
8 government opened in this case and you were sitting here. I  
9 submit to you even as this trial was under way, the government  
10 was trying to solve this murder because it remains unsolved as  
11 of today.

12           It was very telling this morning that the government  
13 spent so much time on the Cafe Vienna robbery which the  
14 government said at the beginning it can't be challenged.  
15 They're right, it can't be challenged. Baldo Amato pled  
16 guilty to that. Yet, the government went on for about another  
17 20 minutes about Cafe Vienna, all in an attempt to shore up  
18 the credibility of Anthony Tabbita using what happened at the  
19 Cafe Vienna as that's truthful, therefore, what he said about  
20 something that occurred five years earlier must be truthful.

21           (Continued on next page.)  
22  
23  
24  
25

1 MR. WHITE: (Continuing)

2 That is another drip of coffee that you can't buy.  
3 What happened at Cafe Vienna, what Anthony Tabitta might have  
4 said about anything else is no evidence that what he said  
5 about conspiracy to murder Sammy DiFalco is entitled to any  
6 weight at all.

7 Your Honor, the --

8 THE COURT: I think we will take a five-minute  
9 break.

10 All rise for the jury.

11 (The following occurred in the absence of the jury.)

12 THE COURT: Please be seated.

13 About how much longer? Do you think you will be the  
14 balance of the day?

15 MR. WHITE: It could be an hour and a half, Judging  
16 on my miscalculations so far.

17 THE COURT: That's all right; as long as it takes.

18 Which means we will have the balance of the closings  
19 tomorrow. I will probably charge the jury on Monday.

20 If what's happened thus far is any indication of  
21 what will happen in the future, I think that's basically where  
22 we will end up, and depending on what happens tomorrow on --  
23 with the balance of the defense closings, we might even have  
24 the rebuttal on Monday, but I'm hoping that we will take care  
25 of all of the closings tomorrow. I prefer to do it that way.

1 Yes?

2 MR. BATCHELDER: Mr. Locurto has an application,  
3 Your Honor. I think it better be done at the side bar.

4 THE COURT: All right. Let's have a side bar.

5 (Side bar.)

6 THE COURT: Yes?

7 THE DEFENDANT LOCURTO: I just noticed there is a  
8 lot of activity on the -- on that side of the -- what you call  
9 it, at the gallery. Every five minutes they keep getting up  
10 and coming back in. It is very distracting. I would hope  
11 that it can be limited. I see people looking, back and forth.

12 THE COURT: Mr. Locurto, it is an open courtroom.  
13 As long as everyone is courteous and doesn't speak, I can't  
14 close the doors to anyone.

15 I can ask people to minimize their movement in and  
16 out, but some of these people are apparently law clerks and  
17 interns who only come in for a little while and then they  
18 leave. It would be difficult to limit their coming and  
19 going.

20 I will keep an eye on it though.

21 THE DEFENDANT LOCURTO: Thank you.

22 THE COURT: Okay. We will take five minutes.

23 (In open court.)

24 THE COURT: All right. Five minutes.

25 (Recess taken.)

1 THE COURT: All right. Please be seated for a  
2 moment.

3 All right. Before we proceed, I am informed that  
4 one of our jurors has a scheduling problem tomorrow morning,  
5 between ten and eleven, having to do with his employment.

6 Side bar.

7 (Side bar.)

8 THE COURT: This is juror number four, the new juror  
9 number four.

10 Here is the note:

11 I need to be off tomorrow morning for my job,  
12 between 10:00 am and about noon, to pick my job and see what's  
13 available for me to work for the next six months. I have to  
14 go to the city. My job goes B -- he means by -- seniority  
15 numbers. My number is tomorrow. The location is -- I won't  
16 say where it is but it is in Midtown Manhattan.

17 MS. LASER: Can we caucus on this?

18 THE COURT: Caucus?

19 MS. LASER: You are asking us -- I'm sorry.

20 THE COURT: You want to discuss with cocounsel?

21 MR. ROSENBERG: See if we have a suggestion.

22 THE COURT: Yes. I will give you a moment to talk  
23 among yourselves.

24 Go ahead.

25 (Pause.)

1 THE COURT: All right.

2 MS. LASER: Thank you.

3 THE COURT: Is anyone speaking?

4 MR. WHITE: All I know is, I want the summations to  
5 come to an end.

6 MS. LASER: It's true, Judge. There are only so  
7 many days you can fully prepare and then --

8 THE COURT: There are options. One option is I tell  
9 him no. One option is I tell him no. Another option is, I  
10 begin at noon tomorrow. Another option is I excuse him and we  
11 just go on.

12 If you want to speak to those -- there may be other  
13 options that I just haven't thought of at the moment.

14 MR. WHITE: Would the government consent to excusing  
15 him?

16 MS. LASER: I think telling him no would be wrong.

17 THE COURT: I am just giving you the options. I am  
18 not saying what my preference is. I am just discussing  
19 options.

20 MS. LASER: You guys want to talk?

21 MR. BURETTA: Do you guys want to talk to us?

22 MS. LASER: No. We are asking you.

23 MR. WHITE: No.

24 MR. BURETTA: Is there a proposal on the table?

25 MR. WHITE: I'd just as soon get rid of him. Put in

1 the other guy and go.

2 MS. LASER: We have five more.

3 MR. WHITE: I don't want to start at noon tomorrow,  
4 that's for sure.

5 MR. ROSENBERG: It may not even be noon.

6 MS. LASER: It might be 12:30, by the time he gets  
7 back.

8 (Pause.)

9 MS. LASER: I don't think anybody is going to want  
10 to go for an hour at 9:00 o'clock for their summation, break  
11 and start again. Is that what you are suggesting?

12 MR. ROSENBERG: No.

13 MR. WHITE: Judge, will --

14 MR. BURETTA: Give us just a moment?

15 THE COURT: Let's just wait.

16 (Pause.)

17 THE COURT: All right. Mr. Batchelder?

18 MR. BATCHELDER: Yes.

19 THE COURT: Yes?

20 MR. BURETTA: We are ready to get the show on the  
21 road. So we would consent to finishing -- to getting rid of  
22 juror number four, replacing with alternate number two.

23 THE COURT: Let me just then move on to the next  
24 issue.

25 I am going to excuse juror number four.



1           In terms of tomorrow's schedule, assuming you finish  
2 today.

3           MR. WHITE: Will we be going to 6:00 o'clock?

4           THE COURT: Yes. I will go to 6:00 o'clock, if you  
5 think you can get done by 6:00 o'clock.

6           MR. WHITE: Yes. I'd better.

7           THE COURT: Right.

8           Whatever. But if you can, I will go to 6:00  
9 o'clock.

10           For tomorrow, if we began -- I need to know how much  
11 time everyone is going to need? How much time do you think  
12 you will need?

13           MR. BATCHELDER: I believe at the outside, at the  
14 outside, two hours. I may be less.

15           THE COURT: All right. That's ten to 12:30 with a  
16 break.

17           Then what do you have?

18           MS. LASER: I think I have two hours, Judge. I  
19 don't think it's much more than that.

20           THE COURT: That's two to 4:30 or two to four;  
21 something like that.

22           Then the rebuttal, how long is this going to take?  
23 If you have some idea?

24           MR. BURETTA: Based on the slides I have now,  
25 probably about two hours. Obviously, I don't know what the

1 other two counsel are going to say.

2 THE COURT: Of course.

3 MR. BURETTA: I will need to adjust things and add,  
4 subtract things based on what they say.

5 I think sort of having to jump into it at 4:30 isn't  
6 part -- isn't the right thing. Given that it's three murders  
7 and numerous hours of closings by the defense.

8 THE COURT: Let me just ask this. Would everyone be  
9 able to start at 9:00 o'clock?

10 MR. BATCHELDER: Sure. I can.

11 MR. WHITE: I like that idea.

12 MS. LASER: Yes.

13 THE COURT: Let's have the marshal here, please.

14 Is it possible that we could have the jurors here at  
15 9:00 o'clock tomorrow morning? What time do they normally get  
16 here by?

17 THE MARSHAL: They are told to meet at their place  
18 of pick up at 8:30. Depending on traffic and the weather. We  
19 could ask them to come at an earlier time.

20 THE COURT: What earlier time would work to get them  
21 here by 9:00 o'clock? Nine or 9:15. If they didn't get her  
22 by 9:00 o'clock, so I can start promptly upon their arrival.

23 THE MARSHAL: We can ask them to be at their  
24 positions at 8:00 o'clock.

25 MR. WHITE: It will be beautiful weather tomorrow, I

1 hear.

2 THE MARSHAL: God willing, they should be all to be  
3 here by 9:00 o'clock. If we ask them 8:00 o'clock, that's --

4 THE COURT: 1992 was a leap year. Every  
5 presidential -- you can figure it out. Every presidential  
6 year, election year is a leap year. That's how they decide  
7 when the presidential election will be.

8 Okay. So what we are going to attempt to do -- I'll  
9 tell the jury this, so that the onus isn't on you, that in  
10 order to get all the closings done by tomorrow, that I am  
11 going to ask them to start off half an hour earlier than they  
12 normally do.

13 THE MARSHAL: Okay.

14 THE COURT: All right. If we have a problem, we  
15 have a problem.

16 All right. So we all know what we are going to do  
17 now.

18 MR. BURETTA: Judge, I would ask tomorrow for at  
19 least an hour break in-between my rebuttal and the defense  
20 closings, just so it's sufficient and tight and, for example,  
21 with the end of our closings today, we took -- towards the end  
22 we took a break, to clean things up and shorten it. I would  
23 ask for that as well so I can both be directly responding to  
24 the closings and being as efficient as possible to make sure  
25 we can finish tomorrow.

1 THE COURT: We will try our best. I will even take  
2 a short lunch tomorrow. We will just have to eat chips from  
3 the vending machine or whatever.

4 It's not your problem, Mr. White.

5 Okay. Everybody all right?

6 MS. LASER: Sounds good.

7 THE COURT: Let's go for it.

8 (In open court.)

9 THE COURT: Bring in the jury, please.

10 (Jury to enter courtroom.)

11 (Continued on next page.)

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1 THE COURT: I'm going to try to have lunch for the  
2 jury at around 11:30 between the two closings tomorrow and  
3 then I'll get the jury a snack for the middle of the afternoon  
4 so they can keep going.

5 COURTROOM DEPUTY: Jury entering.

6 (Jury enters courtroom at 4:30 p.m.)

7 THE COURT: Please be seated.

8 All right, Mr. White, you may continue your closing  
9 argument.

10 MR. WHITE: I am going to discuss the Robert Perrino  
11 murder now. But just before I get into it, there's an  
12 introductory subject that I wanted to mention and I will be  
13 brief. It's about the presumption of innocence.

14 Baldo Amato is presumed innocent. As I speak to  
15 you, he's presumed innocent and that presumption continues  
16 even as you go into the deliberating room and it never leaves,  
17 unless, unless you're deliberating. You, the jury, find the  
18 charges against him proven beyond a reasonable doubt.

19 So, I know you've heard a lot of argument today, but  
20 that shouldn't move you off of the presumption of innocence  
21 because you haven't started to deliberate, you haven't started  
22 to confer yet, and you haven't heard all of the summations yet  
23 including the other summations and the Government's rebuttal  
24 summation. So I'm asking to you keep an open mind.

25 Now, on the subject of Robert Perrino. There are

1 essentially two witnesses against Mr. Amato. Sal Vitale and  
2 Frank Ambrosino and I mentioned to you this, I didn't even  
3 comment on Mr. Ambrosino in my opening statement because I  
4 didn't know at the time that he would implicate Mr. Amato in  
5 the murder.

6           Do you remember Mr. Ambrosino when he testified?  
7 You know this is a particularly interesting photo exhibit.  
8 It's Government Exhibit 2-GG in evidence and what's  
9 exceptional about this is that you know I've been telling you  
10 that witnesses kind of sometimes appear cued as to who was  
11 going to be in the photograph and they'd be asked: "Do you  
12 know Sal Montana?" "Yes, I do." Here's a photograph of this  
13 person and they would say: "It's Sal Montana."

14           Now, you probably wouldn't do that if you were going  
15 to show somebody a photograph of himself because you wouldn't  
16 need to. So, you'd figure they'd recognize themselves but  
17 when Mr. Ambrosino was asked who this was he didn't know. You  
18 know it's kind of amusing, it was amusing at the time. Then  
19 it occurred to me, this is the witness whose powers of  
20 observation are so acute that he could look out of his car for  
21 just a fleeting moment and recognize Baldo Amato and then duck  
22 down in the car.

23           So, think about that, think about how he can't  
24 recognize himself. How valuable. He was one of these  
25 witnesses who, I submit to you, minimized his role in

1 everything. Remember, he actually was charged with two  
2 murders, one was the murder of Louis Tuzzio and he was just  
3 sitting in the back of the car when Louis Tuzzio got shot by  
4 Robert Lino. And he was asked did he have a gun; and, yes, he  
5 had a gun. But the only reason he had a gun was that he  
6 borrowed a jackets from Robert Lino and there was a gun in the  
7 jacket.

8           And then with the Perrino murder, you know, you  
9 almost have to ask yourself what did this guy do to be guilty  
10 of a murder because, according to his own testimony, really  
11 all he ever did was he got some tokens at the Verrazano  
12 Bridge, he parked the car near Anthony Basile's club, and he  
13 followed the others when he went to Staten Island. But he  
14 didn't do anything and that's according to his testimony.

15           You'll see later that doesn't comport with other  
16 witnesses' testimony, that's why you have to look at these  
17 witnesses and ask why they're minimizing their own role and at  
18 the time he's sentenced he can soft pedal as to why he was  
19 candid. "I didn't want to spent spend the rest of my life in  
20 jail" which is why he's cooperating which is the obvious  
21 reason for all of us.

22           I think he came to cooperation latest of all the  
23 witnesses and when he testified he knew when he cooperated  
24 that Sal Vitale had already cooperated and Joey D'Amico Richie  
25 Cantarella, Paul Ragusa, Frank Lino, James Tartaglione, and he

1 also knew that Robert Perrino's body had been located and dug  
2 up over on Staten Island.

3 So, he had a pretty good idea that he may be in  
4 trouble. And, so, he was arrested and two days later he met  
5 with the Government and undertook to cooperate, it didn't take  
6 him very long to figure that out. I'm going to spend a little  
7 time on that meeting he had with the Government two days later  
8 because I think it's not only critical but dispositive of him  
9 as a witness.

10 In that proffer, he sits down with the Government  
11 and you might remember this from my cross-examination. He  
12 goes through the Perrino murder in detail. He tells the  
13 agents and the prosecutor who is sitting there and I'm going  
14 to take you through is this, it will take a couple of minutes  
15 and I will be doing question and answer form. I just ask you  
16 to bear with me.

17 "QUESTION: And you told them you told them  
18 essentially what you knew about the murder of Robert Perrino  
19 correct?"

20 "ANSWER: Yes."

21 "QUESTION: You told him, did you not, that Robert  
22 Perrino was killed because he was considered a weakling?"

23 "ANSWER: Right."

24 "QUESTION: That you tried to kill Robert Perrino  
25 but, no, you told him that?"



1 "ANSWER: Yes."

2 "QUESTION: And that Frank Lino and Anthony Basile  
3 Robert Trimaldi were the clean-up crew?"

4 "ANSWER: Yes."

5 "QUESTION: Did you and Robert Trimaldi tried to use  
6 a roll of something to roll him up in. A roll of tackling,  
7 something like that?"

8 "ANSWER: I don't recall."

9 "QUESTION: Do you recall bringing a roll of  
10 something?"

11 "ANSWER: No."

12 "QUESTION: And you told them about how you picked  
13 up the car and it was a station wagon with a police scanner in  
14 it?"

15 "ANSWER: Yes."

16 "QUESTION: And that you brought that car in front  
17 of the club on 86th Street, correct?"

18 "ANSWER: Yes."

19 "QUESTION: And you told them Frank Lino, Robert  
20 Trimaldi, Anthony Basile and Robert Lino were in the clean-up  
21 crew; that, they rolled Robert Perrino's body up in a tarp or  
22 a rug, right?"

23 "ANSWER: Right."

24 "QUESTION: And that Robert Trimaldi, Anthony  
25 Basile, Robert Lino, brought the body out of the door?"

1 "ANSWER: Yes."

2 "QUESTION: Do you recall telling us that it was  
3 spring time?"

4 "ANSWER: I recall spring time I said early evening  
5 it wasn't dark."

6 "QUESTION: If I -- "

7 "ANSWER: Excuse me. When the body was brought out,  
8 it was dark, yes. When the body was brought out, it was dark  
9 outside."

10 "QUESTION: Did you tell them that you followed  
11 Robert Lino and Robert Trimaldi and Anthony Basile in a car to  
12 Staten Island?"

13 "ANSWER: Yes, I did."

14 "QUESTION: And you told them that you went to Jimmy  
15 Labate's place, correct?"

16 "ANSWER: Yes."

17 "QUESTION: And that you Robert Trimaldi, Robert  
18 Lino, Frank Lino and Anthony Basile met later back at a club  
19 on Avenue U, right?"

20 "ANSWER: Right."

21 "QUESTION: And you went with Robert Trim, Anthony  
22 Basile, and Robert Lino went back to clean up, correct?"

23 "ANSWER: Yes."

24 "QUESTION: In that interview, two days after, you  
25 were arrested, did you ever mention it to Baldo Amato?"

1 "ANSWER: I don't recall."

2 And I showed him notes of that interview; he  
3 carefully and slowly reviewed it.

4 I asked him:

5 "QUESTION: Does it refresh your recollection, sir,  
6 of whether you ever mentioned Baldo Amato in connection with  
7 the Perrino murder on January 22nd?"

8 "ANSWER: It doesn't appear to be on that paper but  
9 I didn't write that."

10 Now, he doesn't have his cooperation agreement,  
11 that's his first proffer. Now, he leaves, he goes back to the  
12 MDC. Now, you remember he testified here that not only did he  
13 see Baldo Amato but he told Robert Lino that he had seen Baldo  
14 Amato and Robert Lino cautioned him, don't mention that to  
15 anybody and he appears agitated when he heard it. Wouldn't  
16 you think that Frank Ambrosino, when he proffered to the  
17 Government about the murder of Robert Perrino, knowing that  
18 nobody was supposed to know the identity of the shooter and he  
19 did, don't you think that would have been the very first thing  
20 he told them? The very first thing he would have told them I  
21 saw Baldo Amato outside the place where Robert Perrino was  
22 shot but he doesn't mention Baldo Amato at all.

23 Now, it goes back to the MDC, doesn't have a  
24 cooperation agreement. Half of the Bonanno Crime Family has  
25 already cooperated about the Perrino murder and he has a

1 problem and he has a bigger problem.

2 First of all, he hasn't given the Government much  
3 that they it don't already have, okay. Secondly, what he has  
4 given them is very inconsistent, contradictory, to what Frank  
5 Lino has already told them. Frank Lino, contrary to  
6 Mr. Ambrosino, has Frank Ambrosino actively involved upstairs  
7 in the club cleaning up, helping carry down the body. He has  
8 him involved at every stage and Frank Ambrosino has told the  
9 Government he wasn't upstairs at all he was sitting outside in  
10 the car double parked waiting.

11 So, how do you think his proffer was received or,  
12 more importantly, how do you think he felt his proffer was  
13 received when he left?

14 Now, what happens is he goes back to the MDC and  
15 what does he do there? I showed him a thick volume, a  
16 detention memo, a detention memo, and he identified it. He  
17 identified it as something that the Government filed in order  
18 to hold the defendants without bail, detain them. Each of the  
19 defendants who was charged.

20 And let me read to you his testimony it's short on  
21 this. I asked him what it was and he said."

22 "QUESTION: This is a memorandum of law that the  
23 Government submitted to the Court to support detaining various  
24 defendants in this case?"

25 "ANSWER: I believe that's what it is, yes."

1 "QUESTION: Including you, correct?"

2 "ANSWER: Right."

3 "QUESTION: And including Baldo Amato, correct?"

4 "ANSWER: Yes."

5 "QUESTION: You had your own copy of this, did you  
6 not?"

7 "ANSWER: I believe I did."

8 "QUESTION: The Perrino murder was a murder of  
9 particular interest to you, correct, you were charged with  
10 it?"

11 "ANSWER: I was charged with it, yeah."

12 "QUESTION: And isn't it true that this indictment  
13 contained a fairly detailed description of the evidence?

14 "ANSWER: The Government said it would introduce  
15 against Baldo Amato I'm sure that it did like it had evidence  
16 against me."

17 That was his testimony.

18 Now, he goes back and he proffers again. And  
19 now he tells the Government and the agents oh, by the way, I  
20 saw Baldo Amato when I was waiting outside for Perrino. I  
21 submit to you, that what he knew at that point, he knew that  
22 Sal Vitale had identified Baldo Amato as the shooter that Sal  
23 Vitale had recruited and he knew that Frank Lino didn't know  
24 who the shooter was because Sal Vitale planned it that way.

25 And so now he was able to come in and now he charged

1 with two murders; he has something substantial to offer: "I  
2 can identify the shooter, I saw Baldo Amato there."

3 On the basis of that sequence of events, I submit to  
4 you that you should reject his testimony out of hand, out of  
5 hand as contrived, manufactured, and as the epitome of what I  
6 said about experienced criminals knowing a system and knowing  
7 exactly how to manipulate it. And this is a shining, glowing  
8 example of how somebody can falsely implicate somebody in a  
9 murder by keeping his ears open, reading what's out there, and  
10 going back and giving the Government information based on what  
11 he's already learned about the case.

12 I asked him on cross-examination and this is one I  
13 know, I focused on it, because I'm questioning him, I just  
14 hope one or more of you focused on it. I asked him exactly  
15 what Baldo Amato was doing.

16 I said:

17 "QUESTION: What was he doing?"

18 "ANSWER: He was just standing there."

19 "QUESTION: I mean, standing there, you know,  
20 whistling looking up in the air?"

21 "ANSWER: I can't answer that."

22 And if you could remember his answer, "I can't  
23 answer that," I don't want to go there. That's because he had  
24 no information. He had no information, he never saw Baldo  
25 Amato there. It wouldn't make any sense if Baldo Amato were

1 the shooter and they come down the stairs of that club. Would  
2 he come outside the club and just be standing there or would  
3 he come down the stairs and step away from that location as  
4 quickly as he could? That, of course, Frank Ambrosino, as I  
5 say, you should reject out of hand and consequently, Baldo  
6 Amato's case, the Government's case, rests solely on the  
7 testimony of Salvatore Vitale. The testimony that Sal Vitale  
8 met with George from Canada and that Baldo Amato more or less  
9 volunteered to kill Robert Perrino. And, you know, Sal Vitale  
10 a member of the Bonanno Family for years, second in command  
11 for a couple of decades and I think a very good witness, his  
12 manner on the stand was very good, but you don't be underboss  
13 of the Bonanno Crime Family unless you are pretty clever  
14 yourself.

15           They said Joe Massino was clever and calculating,  
16 how about Sal Vitale himself the guy is a maestro. Another  
17 way of putting it, -- another way of putting it charitably --  
18 the man is a fraud.

19           You have to ask yourself in deliberation: Is his  
20 testimony so trustworthy that you wouldn't hesitate to act in  
21 a matter of importance in your own personal life based on his  
22 word? This is a man who murdered Baldo Amato's zip friend  
23 Cesar Bonventre. I said: "Well, didn't you murder Cesar  
24 Bonventre?" He said: "I was involved in the murder, yes, I  
25 did actually do the murder."

1           He was driving the car Cesar Bonventre was here the  
2 man identified as Louie Atanazio was in the back seat. He  
3 said, "Looks good to me" and Louis Atanazio shot him in the  
4 head. But Sal doesn't really want to say he murdered him  
5 because he doesn't actually deliver the shots. This is a man  
6 who murdered Baldo Amato's zip friend Gerlando Sciacca in  
7 1999. He orchestrated, he provided the silencer and the gun  
8 that George Sciacca was murdered with. In that, he murdered  
9 the only witness to this so-called meeting at a diner. The  
10 only one that was there was murdered by Mr. Vitale and I  
11 mentioned it before that Baldo Amato came to him. He said  
12 "What happened to George?" With tears in his eyes and Vitale  
13 lied to him about it, about how the murder occurred and it's  
14 kind of interesting when he cooperates a couple of years  
15 later.

16           He puts Baldo Amato in the Robert Perrino murder and  
17 he makes the witness to the conspiratorial meeting a dead man,  
18 a man he himself had murdered. This is a man, Sal Vitale,  
19 what planned to murder Baldo Amato himself. Remember the  
20 testimony of Cesar Bonventre murder was that the plan that  
21 Baldo Amato I was to murder him, too, that was in 1984.

22           Well, as I said, Sal Vitale has no problem dropping  
23 Baldo Amato into a murder in 2003 and taking care of another  
24 zip that way.

25           I don't know what it means but Sal Vitale said his



1 father only spoke Italian and he volunteered that and I said,  
2 "Is there some significance to that?" And he said I thought  
3 it was just something you wanted to know.

4 Maybe he has a problem with people, people he views  
5 as inferior. But most importantly this is a man until the day  
6 he cooperated in 2003 had never spent one day, had never been  
7 sentenced to one day in prison for any crime that he had ever  
8 committed not one day.

9 This man has been committing since 1969 or whatever  
10 but countless crimes never spent a day and that's why I say  
11 this guy is a maestro, he's clever, and he knows the system  
12 and here is something who has a chance to clear 11 murders.  
13 He was only charged with one, he admits to ten more but he can  
14 clear them all. He can get his reduced sentence which will  
15 cover all the other murders he ever did and all the other  
16 crimes and he can walk out of jail in a few years like Anthony  
17 Tabbita. Maybe they live in the same neighborhood, they can  
18 look over their shoulders and see each other.

19 What are the indications that Mr. Vitale is not  
20 trustworthy and you know the Government asked to you look at  
21 the demeanor of the witnesses who testified and determine are  
22 they candid and he was not candid. He was not candid about  
23 his circumstances. He was not candid about why he was doing  
24 or what he was doing or what he knew about what he was doing.

25 I heard him on direct testimony when he was asked in

1 his mind what effect did he think cooperation would have on  
2 him. He answered "I didn't think what affect it would have on  
3 me. I just decided to cooperate right then and there." I  
4 mentioned even Ambrosino and even Tabbita said I didn't want  
5 to spend the rest of my life in jail. Never Vitale, he never  
6 said that. He said, "I didn't think about it." I asked:

7 "QUESTION: Now, am I correct that when you  
8 undertook to cooperate you didn't hope to derive any personal  
9 benefit from cooperation?"

10 He says:

11 "ANSWER: True."

12 And they ask him:

13 "QUESTION as you sit here today, do you have any  
14 concern about what your exposure is meaning hits sentencing  
15 exposure?"

16 "ANSWER: Right now."

17 "QUESTION: Your potential sentence?"

18 "ANSWER: I don't give it much thought. I don't  
19 think about it."

20 I asked him: You knew the potential sentence upon  
21 conviction for the murder of Robert Perrino was mandatory life  
22 imprisonment without parole. You knew that, didn't you?" At  
23 the time he was cooperating you know that, don't you?"

24 "ANSWER: No, sir."

25 "QUESTION: Did you have of any idea what the

1 sentence was for it?"

2 "ANSWER: No, sir."

3 And he continued on: "I wasn't looking at a  
4 long-term situation that you're going to get life.

5 I asked him again."

6 "QUESTION: So you don't know what the sentence was  
7 for racketeering murder?"

8 "ANSWER: Did I know it was mandatory life? No  
9 parole for racketeering murder?"

10 "QUESTION: Right?"

11 "ANSWER: No, we don't go to school. Organized  
12 crime members don't look at it in at that light, sir."

13 I further said:

14 "QUESTION: No matter what happens you don't pay  
15 attention to sentences of other organized crime members that  
16 are reported in the papers throughout the '90s?"

17 "ANSWER: Not really, sir."

18 Why is he testifying that this man is charged that  
19 he has no idea what the sentence is. This is the underboss,  
20 an 11 time murderer. He has no idea what the sentence is? 30  
21 pages later, toward the end of my cross-examination, not  
22 actually, in the middle of my cross-examination, toward the  
23 end of the week, I asked him:

24 "QUESTION: Are you aware and were you aware during  
25 the course of your cooperation that the underboss, former

1 underboss, of another organized crime family pled guilty to 19  
2 murders pursuant to a cooperation agreement and received a  
3 lenient sentence?"

4 "ANSWER: I don't know how many murders he admitted  
5 to and I don't know the exact term of his agreement."

6 "QUESTION: Do you know whether he received a  
7 lenient sentence?"

8 "ANSWER: I think it was somewhere in the vicinity  
9 of five, six years. 40 months or 60 months or whatever."

10 So 30 pages later I'm finally able to get out he  
11 knew exactly. He knew that even as he was admitting to more  
12 murders he could wind up doing a sentence, a very lenient  
13 sentence, and that testimony had no concern of all to him what  
14 the sentence would be. The idea he had no personal interest  
15 is false.

16 Relatedly, I asked him was he aware that there were  
17 other cooperators against him on the Perrino murder because it  
18 didn't enter my mind at the time. Equally false, it didn't  
19 enter his mind. We learned that Richie Cantarella was  
20 cooperating and we learned that other witnesses were  
21 cooperating but it never entered his mind.

22 (Continued on the next page.)  
23  
24  
25

1           MR. WHITE:   (Continuing)   I asked him, Richie  
2 Cantarella has been indicted for the murder of Robert Perrino  
3 a few months before you were indicted for it; is that correct?  
4 I'm not completely clear. I know he was arrested but I don't  
5 know if he was arrested for the Bobby Perrino murder.

6           Imagine that, this murder occurred in 1992, unsolved  
7 murder. Richie Cantarella involved in the murder, a captain  
8 in the Bonanno Crime Family in October of 2003, gets indicted  
9 for that murder that Sal Vitale put together. He doesn't even  
10 know about it, according to his testimony. He doesn't know  
11 this guy in the Bonanno Crime Family has been indicted for  
12 murder involving Perrino. Could not be true. The testimony  
13 could not be true.

14           He testifies, however, he's arrested on January 9th,  
15 2003. He testifies about a Christmas meeting with Joseph  
16 Massino a few weeks before at his sister Anna's house where  
17 they talk. Joseph Massino, he asked him, did you speak to  
18 Mr. Massino? Yes. About Richard Cantarella's arrest? Uh  
19 huh. Is it still your testimony you didn't know what Richard  
20 Cantarella was arrested for? Answer, I know he said  
21 Mr. Massino told me he heard -- he says -- well, question,  
22 why was Mr. Massino meeting with you? You were kind of on the  
23 shelf then, were out of commission? That's true. Why was he  
24 meeting with you, telling you all this stuff? The answer? I  
25 have no idea. I have no idea. Is this testimony believable,

1 folks? He has no idea? He's the most naive underboss of  
2 organized crime I've ever known. He doesn't have a clue  
3 what's going on around him.

4 I kept pursuing him. Did you ever learn, did you  
5 ever learn from Mr. Mitchell, a lawyer representing him after  
6 he was arrested, that Richie Cantarella was cooperating? Now  
7 he answers no, sir. Oh, I think Mr. Mitchell asked me in the  
8 MDC where I was being housed; that he wanted to hire his own  
9 private investigator because he wanted to investigate Frankie  
10 Coppa and Richard Cantarella. That's true. So by that point  
11 in time you knew Richie Cantarella was cooperating? At that  
12 time I knew. That was within a week of your arrest? A week,  
13 ten days, two weeks.

14 I finally pried it out of him by asking about the  
15 lawyer. Didn't the lawyer ever tell you this? Because  
16 obviously a lawyer representing a defendant would advise him  
17 this other guy is cooperating if it's known. I submit to you  
18 Mr. Vitale was concerned, oops, if Mr. Mitchell comes in here,  
19 testifies, contradicts him, he will have a problem. So now he  
20 finally admits he knew Richie Cantarella had cooperated.

21 Now, he meets with the government. In his first  
22 proffer session, something very unusual there happens. I  
23 think we've gotten a sense from other proffer sessions what  
24 the government asks these cooperators at the proffer sessions  
25 initially is about the crime they're charged with. So, are

1 they going to own up to the crime they're charged with? If  
2 they're not going to do that, we're not going to take them as  
3 cooperators.

4           So, the prosecutor says let's talk about the Bobby  
5 Perrino murder. Sal Vitale says, comes back and says, I says,  
6 is that where you want to start or you want to start at the  
7 beginning? What he wanted to do, he didn't want to talk about  
8 the Perrino murder with which he was charged. He's going to  
9 tell them about all other murders, okay? Here's a proffer  
10 agreement.

11           We learn from proffer agreements the statements  
12 there cannot be used against you on the government's direct  
13 case. So, he has some protection about telling them. What  
14 he's doing is he's feeling out the government. He's going to  
15 tell them about Pastore in 1975. He's going to tell them  
16 about the three captains in 1981. He's going to start feeling  
17 them out, seeing how it's going before he's going to commit  
18 himself on the murder he's charge with. That's why I say he's  
19 a calculating individual, although a very very convincing one.

20           He's a witness who testified he was in a worse  
21 position now that he's cooperating, a worse position than if  
22 he didn't cooperate. I asked him, do you feel the same way if  
23 you served life in prison? He allowed he would rethink it in  
24 that context.

25           Along the way he said he was in a worse position, I

1 was only charged with one murder, now I'm charged with 11. We  
2 know that's a charade. That's a fallacy. It appears  
3 convincing, you know. Gee, you're admitting to the murders.  
4 It doesn't matter. You're actually better off admitting to  
5 the 11 murders than only admitting to one, risking subsequent  
6 indictments on the murders that you haven't admitted to.

7           He's the guy who just to get a year knocked off his  
8 sentence tells the Probation Department that he's an  
9 alcoholic. Even after he starts cooperating, he's sentenced,  
10 the judge is going to recommend that, he doesn't correct the  
11 judge. This is what I mean he knows the system. He knows all  
12 the ins and outs. He's a guy who admitted to having false  
13 identification on him. The reason, why did I have it? Yes,  
14 in case I decided to take flight. This is not a guy who  
15 thinks ahead? This is a guy who just acts spontaneously and  
16 cooperates without any view to what the evidence is against  
17 him or what his sentence is?

18           He's a witness, I think more than any other witness,  
19 who constantly minimized his role in everything. Everything  
20 he did was because Joseph Massino told him to do it or later  
21 on -- I'm drawing a blank -- on the other individual who  
22 told him to do it, but he's never the principal.

23           I asked him were you ever the principal in a crime?  
24 Did you ever do anything yourself? No, I was always kind of  
25 in the background, kind of putting together. I couldn't get



1 him to admit did you actually ever commit a crime?

2           Then I asked him, well, you know, did you ever fire  
3 a gun, aside from the time he said he had a tommy gun, it went  
4 off accidentally, did he ever fire a gun? He said yes. When?  
5 Remember this testimony? Do you remember this testimony?  
6 When I was with Patty DeFilippo, he was checking a silencer  
7 that was going -- that he was going to use on George, the  
8 murder of George Sciascia. You fired that, in the first  
9 instance you fired it? I think we both grabbed it at the same  
10 time. We fired it through the sun roof of the car. You had  
11 like interlocking trigger fingers? No, we just both, our  
12 hands went up. I don't think I trusted him with the gun.  
13 Here's a guy who -- what a contrived story, firing this gun  
14 outside the car. This is just this minimizing that afflicts  
15 the person. He knows, ultimately, he will be sentenced. He  
16 will have a cooperation agreement but he wants the judge to be  
17 even more lenient by saying, you know, he was never really the  
18 shooter, never really had a gun. He was doing what other  
19 people told him. This was throughout his sentence.

20           I have examples I won't belabor you with. I asked  
21 him about the murders. Well, it wasn't my idea, I didn't do  
22 this, that. I was only doing this.

23           I told you in my opening there were 11 murders Sal  
24 Vitale pled guilty to. The Perrino murder was special for  
25 him. It was special because Perrino's cooperation would have

1 come back personally to Sal. Perhaps more importantly, it  
2 would have come back to his son Joel.

3 That is one suggestion to you of why of the 11  
4 murders this is the only one that Sal Vitale has claimed he  
5 was not at the scene, the only one he claimed he was not at  
6 the scene when it was committed. It's the only one of all the  
7 murders that Frank Lino was involved in that Frank Lino was  
8 not advised of the identity of the shooter. I suggest there  
9 was a reason for that; that Sal Vitale had a personal stake in  
10 arranging the murder that way.

11 On his direct examination, he professed almost  
12 indifference to Robert Perrino's being murdered as if Sal  
13 Vitale had no reason in the world why he should be murdered.  
14 Did you get any money? Very rare. Did you sometimes get it?  
15 Sometimes. Was it a lot of money? No. That you got. Did  
16 the Bonanno Organized Crime Family make a lot of money from  
17 the Post? I'm assuming they did.

18 He said his son only worked there for a very short  
19 period of time; that when he, Sal Vitale, you recall learned  
20 that his son Joel, that he in fact had a no-show job, he said  
21 I fired him, told him he couldn't go back there. He said that  
22 Richie Cantarella who worked at the Post felt that Bobby  
23 Perrino was weak. He felt Bobby Perrino might spill the  
24 beans.

25 So, a decision was made by Anthony Spero, the name I

1 was drawing a blank on, to kill him. Then he said we decided  
2 to kill him, Anthony Spero and myself.

3 I asked him, did you -- did you -- have any  
4 personal interest in Robert Perrino being killed? The answer?  
5 Not at all. Well, that is hard to believe. Because he  
6 admitted on cross-examination that he had been named as an  
7 unindicted coconspirator back in 1992 when Robert Perrino,  
8 Richard Cantarella and others were charged with all this  
9 corruption that was going on at the Post. He admitted on  
10 cross-examination taking money from Robert Perrino and the  
11 Post, he said, \$600 a month. We at least know it was that  
12 much. We know his son Joel had a no-show job and this was one  
13 of the things that was being investigated.

14 Richard Cantarella was concerned that Robert Perrino  
15 was weak, I submit to you, this is false. It was Sal Vitale  
16 who believed that Robert Perrino was weak and could hurt him.

17 You know, the government said today they brought out  
18 evidence from one witness or another, said on two occasions in  
19 their summation that because they want you to have the whole  
20 story, you know. Well, we know Richard Cantarella. We heard  
21 testimony that Richard Cantarella has a cooperation agreement  
22 with the government but Richie Cantarella was not called as a  
23 witness.

24 If you were to have a whole story, wouldn't you like  
25 to have heard from Richard Cantarella and wouldn't this have

1 corroborated or failed to corroborate Sal Vitale's testimony  
2 that he had no interest in Robert Perrino being killed?

3           You may infer, you needn't, but you may infer from  
4 the government's failure to call Richard Cantarella that he  
5 would not have supported Sal Vitale's testimony. You can  
6 infer that. You don't have to. It's a proper inference for  
7 you to draw.

8           We could have called Richie Cantarella but we have  
9 no burden of proof. As you know, we didn't present evidence,  
10 Mr. Amato rested on his presumption of innocence at the end of  
11 the case.

12           This may be the tiniest exhibit at the trial. I  
13 imagine it is. I think it has powerful evidence in it. This  
14 is the telephone book seized from Robert Perrino when his  
15 house was raided in 1992. You heard in the prosecutor  
16 summation it has a number of phone numbers in there of Bonanno  
17 Crime Family people, Sal Vitale's phone number, 516 area code.

18           Turn the page, there's a number in here, I asked him  
19 about it. Take a look at this in the jury room, Joel Vitale,  
20 home, 516.424.7988. Beeper, 516.522.7668. Emergency beep 911  
21 after pound.

22           Now, why in the world was Richard Cantarella  
23 carrying around Joel Vitale's phone numbers, beeper number,  
24 emergency number unless there's some deeper involvement  
25 between Robert Perrino and Joel Vitale?

1           You remember that Sal Vitale was very protective of  
2 Joel Vitale which is a wonderful thing in itself, but here, it  
3 has particular significance. Sal Vitale was concerned that if  
4 Robert Perrino cooperated with the government, he would not  
5 only get Sal Vitale into trouble but he would get Joel Vitale  
6 into trouble also.

7           Do you remember Joel Vitale's face was slashed at  
8 one point and why, what Sal Vitale did? He had his crew  
9 members, Pete Rosa, Mikey Cordella and Larry Neder, an  
10 individual here identified as just a friend of mine, an  
11 associate, he had them go out go out and who said Joel slashed  
12 him.

13           One day, he was spotted in a park on Parsons  
14 Boulevard in Queens. Joel pointed out the individual and  
15 Vitale said he himself then responded to the location. He got  
16 contacted. He says I told Pete, take Joel with you. Get out  
17 of here. Doesn't want Joel involved. Protecting his son.  
18 Then Larry Neder ran into the park and went to ice pick the  
19 individual. He also, Larry, had a gun on him, he said,  
20 although Sal said he had a license for it.

21           Then he says, minimizing, without me telling him, he  
22 just ran into the park and he ice picked the guy. He  
23 apparently just got his coat, didn't injure him, but that's  
24 what happened in that incident.

25           He also, Mr. Vitale, explained how Joel had a drug

1 problem and he had a lot of drug problem friends who Sal  
2 suspected of burglarizing Sal's home, including stealing  
3 \$10,000 off the counter top.

4 What did he do? He had Larry Neder sit on the  
5 house, actually sit inside the house during the day with his  
6 gun. When these guys, suspected burglars, friends of Joel,  
7 came up the driveway, Larry came out with his gun drawn on  
8 them and had summoned Sal and Sal came and administered a  
9 beating to these guys.

10 I submit to you, quite contrary to Sal Vitale's  
11 testimony, that he had no interest at all, no personal  
12 interest in Robert Perrino cooperating. He had more interest  
13 than anybody had because of himself and probably more because  
14 of his son.

15 As to the murder plan itself, I asked Mr. Vitale,  
16 well, he testified that he actually went there and he looked  
17 at the murder scene himself. He went to the club and he  
18 looked. He said Spero wanted me to look at it. Frankie Lino  
19 wanted me to look at it.

20 I said why did you have to look at it, for what  
21 purpose? His answer was that's a good question. I don't know  
22 why I had to look at it.

23 That was a good question but it wasn't a good  
24 answer. Why did he have to go there and look at it? The  
25 answer may be in the following exchange that I had with him.

1 I said were you present when he was shot? No, sir. You  
2 testified about this murder before, haven't you? I believe it  
3 was brought up on the other cases. You were asked either on  
4 direct examination or cross-examination about it? That's  
5 true. Do you remember a lawyer bay the name of Mr. Breitbart,  
6 David Breitbart cross examining you? Yes, I do. Not easy to  
7 forget, is he? Not at all. I'm drawing his attention to this  
8 cross-examination at another trial by another defense lawyer.

9 At the time you testified and were cross examined by  
10 Mr. Breitbart, that was at a trial, sir? Yes. That was the  
11 trial of Mr. Massino? That's correct. Did he have any  
12 involvement in the murder of Robert Perrino? No. That's Joe  
13 Massino. Were you asked this question and did you give this  
14 answer with respect to the Robert Perrino homicide?

15 "QUESTION: Did you know the details of the  
16 homicide, sir?

17 "ANSWER: I laid out the homicide. I was present  
18 there during the homicide."

19 Then it goes on. "Were you asked that question and  
20 did you give that answer? If that's what is written there,  
21 sir, that's not true. I wasn't there. If that's what the  
22 transcript says you misspoke? Probably. I wasn't there."

23 I asked the court to acknowledge the transcript had  
24 been accurately read and the court did. I submit to you that  
25 when Sal Vitale testified at the murder of Joseph Massino, and

1 was being cross examined on all the murders he was involved  
2 in, he didn't misspeak when he said he was present during the  
3 Perrino homicide. He slipped when he said he was present.  
4 That was his sworn testimony under oath in another trial that  
5 he was present. You can consider that sworn testimony in the  
6 other trial for its own truth.

7 Now, he continued on after the murder that night.  
8 He was beeped by Michael Cardello. Michael Cardello said I'm  
9 on my way. I'm on my way home. Everything is fine.  
10 Mr. Vitale was asked where were you? At home. What were you  
11 doing home? We had the party. You know, the birthday party.

12 Isn't it just an amazing thing that Sal Vitale who  
13 arranged and orchestrated this murder, schedules it for a  
14 night, you know, when there's supposed to be a party, he says?  
15 I mean he could have set up the meeting with Robert Perrino  
16 the next night. It didn't have to be the night of May 4th.  
17 Isn't it curious that it's going to be that night?

18 I asked him a little more closely. What did you  
19 tell him, meaning Cardello? I told him that it was my son's  
20 birthday and I'll be busy. Could you do me a favor? I didn't  
21 say -- I said take Baldo to the location. I asked him  
22 further. When you told him to take Baldo to the location  
23 because it was your son's birthday; is that the reason? Yes.

24 Now, that's not a birthday party. It's his son's  
25 birthday. We know the murder was on the 4th. We know one



1 son's birthday was the 3rd. We know one son's birthday was  
2 the 6th because he testified to that.

3 So, there's something wrong in all this. That is a  
4 false alibi that he had his son's birthday because his son's  
5 birthday that day and allowing the possibility that they have  
6 a party on the unlikely night of Monday night for the birthday  
7 party, which is hard to accept that he would plan a murder  
8 that night, it's that totally uncorroborated alibi.

9 You know, we've seen photographs of just about  
10 everything at this trial. Could there have been photographs  
11 of that party? Could there have been some relative of  
12 Vitale's come in and testify, yes, you know, we had a birthday  
13 party that night? Isn't that quite suspicious to you that  
14 this contrived alibi is not corroborated in any way?

15 It's a contrived alibi, not only for Sal Vitale but  
16 since it was a birthday party, or a birthday, it's a contrived  
17 alibi for Joel Vitale. I'm not saying Joel Vitale shot Robert  
18 Perrino. I'm not saying Sal Vitale shot him. Who knows? Who  
19 knows who shot him, but they were involved. Sal Vitale was  
20 present and someone close to Sal Vitale was involved in that  
21 murder, someone that Sal Vitale didn't want to give up and  
22 there's a zip back at that table he doesn't give a damn about  
23 giving up.

24 This is Sal Vitale's crew at his club a year before  
25 Robert Perrino was murdered. We got Mikey Cardello, Peter

1 Rosa, Anthony Urso, Joe DeSimone. Sal Vitale didn't need to  
2 recruit Baldo Amato to kill Robert Perrino. Sal Vitale had  
3 his own stable of killers right in his own club.

4 Another flaw in his identification of Baldo Amato  
5 is, oh, Baldo Amato wasn't in his crew. According to the  
6 testimony, Baldo Amato was in Louie Haha's crew, Louie  
7 Antanino's crew.

8 Sal Vitale has to explain that. How do you take  
9 somebody from another crew and use them on a shooting, except  
10 George? Still, that was a mistake. I should have checked  
11 with Louie Haha if it was okay with Baldo. That's just  
12 back-filling on Vitale's part now to explain, to try to  
13 harmonize his use, his alleged use of Baldo Amato to  
14 participate in that murder.

15 No one knew the shooter. He insulated the identity  
16 of the shooter from everybody else. On redirect examination,  
17 in fact on direct examination, he said well, Anthony Spero  
18 knew and Mikey Cardello knew, but that's only Sal Vitale  
19 saying that. We don't know if they do. We never heard from  
20 them. That's just Sal Vitale covering himself.

21 Kevin Barry, the ballistics detective, he testified  
22 at the end of the case, testified on cross-examination by me  
23 that there were three bullet wounds in Robert Perrino's head,  
24 but they were fired from two different weapons. Up until that  
25 point, I would imagine you had the impression, as did I, that

1 Sal Vitale had recruited one shooter. Somebody was going to  
2 leave Robert Perrino there. The shooter would kill him. Yet  
3 we know now there were two guns used.

4 Now, it's theoretically possible that one shooter is  
5 shooting use two guns. Probably two shooters. This whole  
6 scenario about Baldo Amato being the shooter gets shakier and  
7 shakier.

8 (Continued on next page.)

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1 MR. WHITE: (Continuing)

2 Sal Vitale has not told you what his real  
3 involvement was in the murder of Robert Perrino. I've given  
4 you some suggestions of what it was, but I only have theories.

5 But my theory is at least as good and better than  
6 the theory that Baldo Amato committed this murder, supported  
7 only by the testimony of somebody who had a motive to conceal  
8 his own involvement, Salvatore Vitale.

9 Of course, Frank Ambrosino, you have his testimony  
10 too, but as I say, I think you should give that no weight at  
11 all, right out of the box.

12 Robert Perrino was also known by Joseph D'Amico who  
13 testified here. Joseph D'Amico corroborated a few things. He  
14 testified that Robert Perrino would often meet with Sal by  
15 himself. He testified that Joel would sit in the office,  
16 Perrino's office but, you know, I would see him once in a  
17 while load a truck or so but more or less when I seen him he  
18 would be in the office of Bobby Perrino.

19 He testified that when Robert Perrino's house was  
20 raided, they seized phony checks and no-show job checks and  
21 pistols.

22 He, D'Amico, he, who wasn't involved in the Perrino  
23 murder, he -- he knew that Cantarella had been indicted in  
24 2003 for the Robert Perrino murder. He knew it and he  
25 followed it. He said he followed it and he said he discussed

1 it.

2 Did you discuss with other members of the Bonanno  
3 Family what was going on in Richie Cantarella's case?

4 I believe so yes, he testified.

5 Yet, Sal Vitale is clueless. Clueless. He is not  
6 sure what Richie Cantarella is charged with, even though it is  
7 the murder of somebody that Sal Vitale is completely exposed  
8 on.

9 D'Amico testified that when Cantarella began to  
10 cooperate, D'Amico learned it almost immediately, because  
11 Cantarella's family had been moved out of their house and  
12 Cantarella had been taken out of the MDC or the MCC.

13 But Sal Vitale goes on, you know, a complete naive,  
14 they would call it, doesn't know from nothing, as innocent as  
15 the newborn snow.

16 Just before I leave Mr. D'Amico, I just want  
17 to -- it doesn't have to do with the Perrino murder, but I  
18 just want to point out something in his testimony that is kind  
19 of emblematic of when I talk about coconspirator statements.

20 He was asked on direct examination:

21 Did you have any discussions with anybody in the  
22 Bonanno Organized Crime Family about whether Sammy DiFalco had  
23 any association with the crime family?

24 Answer: Yeah. Richie told me.

25 That's the scenario I said was repeated over and

1 over.

2           Somebody else -- Richie told me when Joe Massino  
3 opened up the restaurant called Casablanca, that the previous  
4 owner of the restaurant was Sammy DiFalco and he had sold it  
5 to Joe. So Joe could open his own restaurant. That Sammy was  
6 with Baldo. He also owned Cafe Giannini.

7           So here is -- here is D'Amico just running off at  
8 the mouth as things -- about things that Richie Cantarella  
9 told him that couldn't be true. We know Joe Massino didn't  
10 buy Casablanca from Sam DiFalco, because Sammy DiFalco had  
11 been dead for a few years. Sammy DiFalco did not own Cafe  
12 Giannini.

13           Frank Lino testified about how protective Vitale was  
14 about the identity of the shooter. He testified that under no  
15 circumstance did Sal Vitale want the shooter known, and Lino  
16 said he thought it was odd but then on second thought he could  
17 see the wisdom of it. Why not keep the identity of the  
18 shooter for security reasons. He thought it odd, that it  
19 never happened before, that he didn't know who the shooter  
20 was.

21           Finally, he testified in -- not minor  
22 inconsistencies with Frank Ambrosino but in direct  
23 contradiction of Frank Ambrosino about what Ambrosino's  
24 involvement was.

25           After Perrino was shot, Robert Lino went to the

1 location, went up the stairs and he went into the club. I  
2 asked him:

3 Question: Who was upstairs when you got there?

4 Answer: My cousin Robert, Frankie the Kid -- which  
5 is how he referred to Frank Ambrosino -- and Anthony Basile  
6 and the body.

7 Where was your own car?

8 A few feet away from the location, right on  
9 86th Street, parked at the curb on 86th Street.

10 The body was brought down rolled in a rug.

11 Question: Who was it that brought it down?

12 Robert Trimaldi, Robert Lino, Frankie the Kid, and  
13 Anthony.

14 What were the names of the individuals in the other  
15 car?

16 Robert Trimaldi, Robert Lino, Frankie the Kid, and  
17 Anthony Basile.

18 So Ambrosino would have you believe that he had no  
19 involvement in actually removing the body and Frank Lino  
20 testified that he went upstairs and not only was Frank  
21 Ambrosino upstairs cleaning up, but after Frank Lino came  
22 downstairs and waited in his own car, he saw Ambrosino coming  
23 down the stairs with the rug containing the body.

24 So just concluding on Mr. Perrino, Frank Ambrosino  
25 can't be believed at all. And Sal Vitale is a very

1 calculating, clever and will probably be a successful fraud.

2 A little anticlimactic, talking about baccarat after  
3 that. So I won't be very long. I told you that our primary  
4 focus is on the murders, but on the baccarat, you know, we  
5 heard so much evidence about being baccarat, the shoe is not  
6 around here anymore, but, you know, that shoe, I think it  
7 was -- it was -- the agent testified he seized it in 2001 or  
8 2002. There was so much testimony about baccarat and so  
9 little, virtually none, maybe even none, about Baldo Amato's  
10 involvement in the baccarat.

11 The government's theory, as I understand it, is  
12 this. That in two seasons, 1990 to '91, that winter, and '91  
13 to '92, the baccarat game was held at Cafe Giannini and the  
14 government's theory is that Baldo controlled Cafe Giannini and  
15 that's based on mostly people saying that that's what they  
16 heard, like from Uncle Cheech and everything else.

17 The government is right, that there was really no --  
18 well, they are not quite right. Witnesses testified they  
19 never saw Baldo Amato at the baccarat game, except for  
20 Frank -- Frank Fiordilino testified he did see him there. He  
21 testified he saw him there on opening night in 1990-'91.

22 Can't be. Can't be. Because he testified that the  
23 season opened in October that year, and the prison records  
24 that you got in the last day of the trial show that Baldo  
25 Amato was released from prison on November 16th of 1990.



1     Couldn't have been there. So he was never there.

2             But the government is right. He doesn't have to be  
3     there. He doesn't have to physically be there to control  
4     baccarat game. But there is no evidence he did control it.

5             The evidence was that the Bonanno Crime Family and  
6     the Gambino Crime Family and the Bonannos represented  
7     throughout this by Cheech Navarra, all these years, ran, ran  
8     the baccarat game.

9             Okay. The cafe, the cafe, all it got out of was it  
10    sold more canolis and more coffee and gelato. That's what it  
11    got out of that.

12            That the baccarat game was held at Cafe Giannini  
13    does not mean it was ever held there with Baldo Amato's  
14    consent. Nino Mastretta ran that cafe. You know, if he  
15    wanted to have a baccarat game there so he could increase his  
16    sales, you know, that was his decision.

17            And you will remember the place was raided the next  
18    year and Nino didn't want the baccarat game there any more.  
19    He said the reason he didn't want the game there is, my guy  
20    said the place is going to get smashed. It is going to get  
21    broken up with these raids. I don't want it here.

22            Assuming the government's argument, that my guy is  
23    Baldo Amato, that's an indication that Baldo Amato never  
24    agreed to have the baccarat game at Cafe Giannini. That  
25    wasn't -- even if you want to believe the joker-poker machines

1 were his or anything else, no evidence that he ever agreed to  
2 have baccarat game at Cafe Giannini in those two years.

3           So that is a racketeering act and count that you can  
4 acquit Mr. Amato on.

5           Joker-poker, well, as I said, the evidence that he,  
6 Baldo Amato, controlled many joker-poker machines, it did come  
7 from numerous witnesses. It was always -- it was always one  
8 variety of hearsay or another. You know, so and so told me  
9 they were his machines. So and so. It was never Baldo Amato  
10 saying it was his machines. Even that little excerpt this  
11 morning of conversation between Frank Lino and Baldo Amato,  
12 actually, if you look at it carefully, it was about Frank  
13 Lino's machines. There was no admission that they were Baldo  
14 Amato's machines.

15           In any event, Sal Vitale testified that the  
16 joker-poker business fizzled in the mid-to late nineties, and  
17 we know from Detective Argentiano, if I am pronouncing it  
18 correctly, that Cafe Giannini was padlocked and closed down  
19 for good in 1998.

20           Even though Baldo Amato is presumed innocent and  
21 even though the government bears the burden of proving his  
22 guilt beyond a reasonable doubt, I recognize that it takes  
23 courage in a case like this for a juror to vote not guilty,  
24 especially with serious crimes like murder.

25           But those principles of presumption of innocence and

1 the standard of proof beyond a reasonable doubt, that's what  
2 is central to our criminal justice system. So I ask you to  
3 return a verdict that simply upholds those standards. Find  
4 Baldo Amato not guilty of the crimes that were not proven  
5 beyond a reasonable doubt and you can go home knowing that you  
6 have served well as jurors.

7 Thank you.

8 THE COURT: Very well.

9 Members of the jury, we are going to suspend for the  
10 evening now. I am going to ask you to be here tomorrow  
11 morning a little earlier so that we can be sure to complete  
12 all the closing arguments tomorrow.

13 The marshals will talk to you about it. I am going  
14 to make every effort to begin as close to 9:00 o'clock as  
15 possible.

16 I have spoken to the attorneys and I think we can  
17 get all the closing arguments in tomorrow that remain.

18 There the closing arguments for the remaining  
19 defendants and then there is the government's rebuttal. What  
20 this means is that I will be charging you as to the law on  
21 Monday morning. My charge should take about three hours, so  
22 there is no way that I would be able to charge you tomorrow  
23 unless we decided to stay until all hours of the night and we  
24 are not going to do that.

25 Another point, I would like to make every effort to

1 cooperate with the marshals to get you here by 9:00 o'clock  
2 tomorrow.

3 Let me also say that once deliberations begin, that  
4 your deliberations will take place from the time all twelve of  
5 you in the jury room. You can only deliberate when all twelve  
6 of you are together, but not beyond 6:00 pm. It is my policy  
7 that the jury cannot deliberate beyond 6:00 pm in the evening  
8 because of experiences that I have had where jurors have  
9 stayed late and it has been very difficult on them and I would  
10 not permit a jury to deliberate beyond 6:00 pm on any given  
11 day.

12 This just gives you a sense of how the schedule will  
13 work once the case goes to you for your deliberations.

14 I think that covers it.

15 Now, I am going to remind you again not to discuss  
16 the case among yourselves, not to discuss any of the arguments  
17 that have been made in closings among yourselves, or with  
18 anyone else. Keep an open mind until all of the closings have  
19 been completed and you have had a chance to deliberate and  
20 consider the views of your fellow jurors during jury  
21 deliberations, and not to read, watch, listen to or access on  
22 the Internet any stories or accounts of this trial, not to  
23 visit any of the locations that have been identified during  
24 the course of testimony, not to attempt any independent  
25 research.

1           If you are taking notes please leave them in the  
2 jury deliberation room.

3           Tomorrow's schedule will afford us an opportunity to  
4 have an early lunch and also to possibly have a mid-afternoon  
5 snack, which I am arranging with Mr. Recoppa who is my  
6 caterer.

7           We will see you tomorrow. Get a good night's sleep.  
8 All rise for the jury.

9           (The following occurred in the absence of the jury.)

10          THE COURT: Please be seated for a moment.

11          (Pause.)

12          THE COURT: All right. We are going to start as  
13 close to 9:00 o'clock as possible. Mr. Batchelder, I know you  
14 will be here on time. So will everyone else.

15          Is there anything else that we need to do this  
16 evening?

17          MR. BURETTA: No, Your Honor.

18          THE COURT: Defense counsel?

19          MR. WHITE: No, Your Honor.

20          THE COURT: About two hours for Mr. Batchelder.

21 Another two hours for you, Ms. Laser. But what I am going to  
22 attempt to do, as you heard, is I am going to attempt to bring  
23 lunch in early so that they can have their lunch around 11:30  
24 for half an hour. You will go from twelve to two. And  
25 then --

1 MS. LASER: I have a natural break after about half  
2 hour, 45 minutes. If it doesn't work out perfectly, I don't  
3 mind doing that either.

4 THE COURT: I will keep that in mind. But it is my  
5 hope that we won't have to interrupt either of the closings  
6 for lunch. I think that probably will work out pretty well.

7 All right. Thank you, everyone. Have a good  
8 evening.

9 (Recess taken until 9:00 o'clock, July 7, 2006.)  
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